LEGISLATIVE BUSINESS.

THE TRAVANCORE COMPENSATION FOR IMPROVEMENTS BILL.

MR. R. RAMAN PILLAI (*Changanachery cum Peermade II*) : Sir, I beg to present the report of the Select Committee on the Travancore Compensation for Improvements Bill, and move that the same be taken into consideration.

MR K. SANKARAN (*Karthikapalli II*) : I second it.

PRESIDENT : Moved and seconded that the Travancore Compensation for Improvements Bill as reported and revised by the Select Committee be taken into consideration.

MR. N. E. VARUGHESE (*Tiruvalla I*): Sir, I oppose the motion on a technical ground.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) : Sir, I rise to a point of order. The member is speaking in English. His usual language is Malayalam. I request the Chair that he may be asked to speak in English hereafter.

PRESIDENT : Thank you, I shall take note of that.

MR. N. E. VARUGHESE (*Tiruvalla I*): I request the Chair to allow me to speak in English without prejudice to my right to speak in Malayalam.

PRESIDENT : When that right is asked for, it will be decided on its merits. Now you can go on.

MR. N. E. VARUGHESE (*Tiruvalla I*) : Am I to speak in Malayalam or in English ?

PRESIDENT: English. As you began, you had better end.

MR. N. E. VARUGHESE (*Tiruvalla I*) : Sir, the Bill which is now under the consideration of this House is a very important one. It affects a large number of landholders in the State as well as proprietors. The Report of the Select Committee was published only on the 4th of November. There was only a period of 8 or 9 days for the public to know about the contents of the Report. I got a copy of the report only on the day I happened to be in Trivandrum for this meeting.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : Which was that day ?

MR. N. E VARUGHESE (*Tiruvalla I*) : Tuesday the 12th of November. So that, I had only 4 days to study the Report. The Report was sent to my home address I am not expected to be in my house always anxiously waiting for the Report to arrive. I have got other work too. I am an agriculturist. I have got estates. I have to go here and there. I request the House to consider whether 5 or 6 days would be enough to study carefully such an important measure which affects vitally the interests of holders as well as proprietors.

Sir, according to the Standing Order, I am entitled to raise this objection. Standing Order 41 says : " Any member may object to its being so taken into consideration if a copy of the report has not been available for the use of members for 7 days". So, if the House is to believe me that I got the Report only on the 12th instant, I did not get 7 days.

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The question may be put to me, whether if I am so very anxious, there was not sufficient time for me to bestow my immediate attention to this subject. I wish to say that the members were engaged in going through other important reports. The atmosphere was very much agitated. So I could not bestow my attention to this Report to the exclusion of all the other reports that had to be considered by this House.

I can realise the immediate necessity of taking this Bill into consideration now on the ground, that, if it was not considered now, it is likely to be drowned before the close of this Assembly. Sir, that is a matter which the Government can very well remedy. More Sessions could be held hereafter or an additional day may be allotted for the consideration of this measure in this meeting.

I do not think there is any urgency for rushing this Bill through the House without paying due attention to the several clauses. Several important alterations have been made by the Select Committee. In certain places, customs have been ignored. The public as well as the Members had not sufficient time to consider and put in amendments if any. I got time to send in amendments only yesterday. I think that those amendments are very important. But a technical objection may be taken that my amendments are out of time.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*) : I want to know from the member whether he submitted his amendments without reading the Bill as revised by the Select Committee.

PRESIDENT : He has sent in his amendments only yesterday, and they were late. He says that, if the admendments were admitted, that would have produced a desirable change in the Bill.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*) : May I know whether the member has any objection to proceeding with the second reading today if the Chair admits the amendments ?

PRESIDENT : Can you undertake that ? It is the President who is to decide that. You cannot make a bargain with him on that basis.

MR. N. E. VARUGHESE (*Tiruvalla I*) : I crave the indulgence of the Chair to consider this aspect, I ask the members of this House to oppose this motion and postpone the consideration of the Bill.

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*) : Sir, I object to the postponement urged by my friend, This Bill was considered by the Members of the Select Committee very carefully. It was published on the 19th Tulam. Mr. Varughese is expected to get it on the same or on the next day. Whether he was out of his house or not is not a matter to be considered by this House. It is not the duty of the Assembly Secretary to carry the Bills to the Houses of the members. That is impossible. The Bills are sent by Post. The member ought to have received and he ought to have submitted amendments if necessary.

As regards the Bill itself, I wish to submit that there is no innovation whatever in it. It aims only at a codification of the rulings of the eminent Judges of our High Court,

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[Mr. R. Raman Pillai.]

If the consideration of the Bill is adjourned, most probably the bill on which was spent more than Rs. 2,000 of Government money and much time and labour of several members, may be drowned in the Arabian sea or anywhere else. So I oppose the motion. The original Bill was published two years ago.

PRESIDENT: It is not a question of the publication of the original bill that is now raised. It is only a question of making the report of the Select Committee available to the members of the House at least seven days before the meeting.

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*): It was published in the Government Gazette on the 19th of Tulam. The Gazette is being sent to each member.

MR. N. E. VARUGHESE (*Tiruvalla I*): It was published in the Gazette dated the 12th November.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): In the copy that is supplied to us, it is dated as 2nd November.

PRESIDENT: It was published in the Gazette dated 5th November as seen from the office records.

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*): The Bill was published even long ago in the Gazette and it was re-published for the information of the public within the time fixed under Standing Orders. For these reasons, I oppose the objection raised by Mr. Varghese.

MR. P. C. KURIYEN (*Kottayam I*): I have not got a copy of the Gazette wherein this Bill is published. There is no facility for me to peruse the Bill as per the rules or standing orders. For this reason, I support the position of Mr. Varughese and oppose the motion for considering the Bill of Mr. Raman Pillai.

MR. K. M. KURIAKOSE (*Muattupuzha II*): I also support the position taken by Mr. Varghese very strongly. The contents of this Bill will affect North Travancore more than South Travancore. It is a very important Bill and I admit my inability to go through the Bill till this morning. I never knew that it was so serious a Bill that we were going to consider at such short notice. Even admitting that there is no technical objection, I think, Sir, we are not here to obey the letter of the law. It was printed only in the Gazette dated 19th Thulam. The bill as redrafted has undergone thorough change. The general public had not sufficient time to know the contents of the bill. What is the purpose of publishing a bill in the Gazette? Is it not for the general information of the public? As matters stand, I doubt whether the public had enough time to know the contents of the bill. Admitting it was published in the Gazette dated 19th Thulam, there is not ample time or even minimum time for us to go through the bill. As we were expected here on the 25th, we had to start on the 24th from our residences. The volume of work that we have to get through during this session make it impossible to do full justice to this item in such a short interval. There is much justification in Mr. Varghese saying that he did not get a copy of the bill in time.

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There is again another point. Where is the hurry or necessity to get on with this legislation in such a summary manner? I do not know whether there is any urgent necessity called for by the passing of this bill today. Of course the programme may be slightly disturbed for the moment. But we have got many a useful work to be done. Considering the several bills that are taken for consideration during this sitting, I admit my inability to go through all these bills with sufficient care. And this is a very serious matter to be taken into consideration. For all these reasons, I object to taking the bill for consideration today.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I thought Mr. Varghese's objection was that the provision of the Standing Orders has not been conformed to. So far as that is concerned, I think the Bill as reported has been made available in the usual way to members and it has not been contended that it was received by the members as usual. What Mr. Varghese said, if I remember correct, was that he was engaged otherwise and that that was why he did not come to know about this Bill. If that be so, it is not an acceptable reason.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*) : Sir, what about the objection raised by Mr. Kurien?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): The member was sworn in only when he came to this House.

PRESIDENT : That is not a very important point.

However the other point which the Chair has to consider is whether the objection that has been taken by one honourable member that the report was not made available to him before seven days from the date of this meeting should weigh in the mind of the Chair to agree to postponing the whole measure to the next session of this House. At any rate it has been made clear from office records that the report was published on the 5th of November. Therefore there has been ample time from 5th November to 16th November when the honourable members could apply their minds to peruse the report of the Committee. Now some honourable members have given their amendments in time. The only exception, perhaps in the case of the member who raised the objection that he was only sworn in this session and therefore he was denied the privilege of receiving the copy of the Gazette before, is this. But that by itself cannot be the reason for the purposes of arresting the progress of work which was allowed before the House.

One thing at any rate may be taken into consideration in connection with this bill, whose importance I am not prepared to belittle. It is indeed a very important bill. While there are the interests of the landholders to be safeguarded, there are again the interests of the cultivators to be still more safeguarded. Therefore it is very necessary that every opportunity must be given to this House to apply their mind to bring about such amendments to the bill as will be useful either to the landholder or to the tenant. It is no doubt unfortunate that a

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[President.]

number of amendments have since been received and are out of time. But a little indulgence on the part of the Chair in admitting such amendments could cure the difficulty which the objector has raised. In view of all these circumstances, I think I should allow the bill to proceed.

The Chair has already indicated that these amendments, although received subsequent to the due date, will be considered according to their importance and admitted.

(At this stage the President left the Hall and the Deputy President occupied the Chair.

Clause 2.

DEPUTY PRESIDENT: The first amendment notified by Mr. Karayalar is to clause 2. It reads as follows .—

> Omit the word "and" occurring between "been" and "continues" in line 3 and substitute the words "increased or".

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): There is some mistake in the wording of the amendment in the notice of amendments My amendment is :—

In clause 2, sub-clause (iii), line 3 omit the world "and,' occurring between "been" and "continues" and substitute the words "increased or".

After making this amendment the clause will read thus :

> "Improvement" means any work including its product which is suitable to the holding and consistent with the conditions on which it is based, by which the value of the holding has been increased or continues to be increased and which if, not executed on the holding is either executed directly for its benefit or is after execution, made directly benficial to it "

My object in moving this amendment is this. As the provision stands at present, there are two conditions required to be satisfied to constitute a work an improvement under this Bill. The value of the holding must have increased at the time assessment takes place and the value must continue to be increased. Both these requisites must be satisfied if a work has to be treated as an improvement. As a matter of fact, the value of a holding might have increased at the time an assessment was made, but it may not continue to be increased. There may be also cases of improvement where the value of the holding continues to increase, so that it may not be possible in all cases for both the requisites to be fulfilled. This state of affairs will certainly cause hardship to tenants. It is to cure this defect that I propose that the definition may be amended so that an improvement may be considered to be an improvement by which the value of the holding has been already increased or continues to increase. Otherwise both these requisites cannot be satisfied. The holding must have increased in value at the time the assessment is made and it must also continue to increase in value if compensation for improvements is to be claimed

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That seems to be very unfair. What I suggest is that one or the other of the two requisites may be required to be satisfied.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): May I know whether he has read the definition of the word with reference to the Jenmi Kudiyan Regulation, a definition allowed by the Legislature of Travancore and whether it differs in any way from this?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): We are not concerned with the Jenmi Kudiyan Regulation at present. All that we are concerned with is the definition in the present Bill.

DEPUTY PRESIDENT: His idea in putting that question seems to be that, as far as possible it is better that the same word or set of words used in one Regulation may be used to convey the same idea in another Regulation also.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): I submit that it is the definition found in the Jenmi Kudiyan Regulation which has stood the test of scrutiny for all these years.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): We are considering the definition of the word "improvement" in this Bill and we need not bother ourselves with the definition found elsewhere.

DEPUTY PRESIDENT: Shall I throw out a suggestion? You say the value of the holding has been increased or continues to be increased. It would be better if the words "value of the holdings have increased or continues to increase" are substituted.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): It is only a matter of grammar.

MR. S. J. NAIR (*Nedumangad*): I support the amendment.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I wish to say a word on this amendment. It is no wonder that the Honourable Member Mr. Karayalar has not been able to convince this House of the necessity for the amendment that he has proposed.

DEPUTY PRESIDENT: You cannot say that.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I have not been convinced and my friend who sits near me has not been convinced. The definition is so very complicated that any word that appears in this paragraph when deleted would bring in greater confusion. I know that this word "improvement" has been borrowed from the Jenmi kudiyan Regulation of 1071. It is an adoption. "Improvement means any work including its product which is suitable to the holding and consistent with the conditions on which it is based." What are these conditions on which it is to be based? Is it the holding? It is based on what? It is based on the Kanapattom referred to in the Jenmi and Kudiyan Regulation, and what have we got to do with it when we are dealing with the compensation for improvements Bill? If any other word is substituted in place of the existing words, it cannot be equal in force and therefore it is that I said that my Honourable friend has not been able to convince me of the necessity for such a change. It would be as bad with the change as it would be without it.

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DEPUTY PRESIDENT: If Mr. Krishna Pillai had proposed an amendment, the House would have been in a better position to discuss it.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): The point that has created some doubt in my mind is this. 'The value of the holding has increased." That is his amendment. Some doubt is expressed with regard to the words "has been". Some think it should be "have been."

DEPUTY PRESIDENT: Mr. Karayalar has agreed to the suggestion of changing "has" to "have". So words "has been" do not exist there.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): What the framer of this definition wanted to bring into prominence was this. If the value of some improvement has increased, it must continue to increase its value even after it comes back to the proprietors. The various methods by which improvement can be effected will clearly illustrate that position. In the case of pepper its value shall be assessed at three years' capitalised value. If it is not bearing for three years, a small percentage shall be calculated as market value. Similarly, in the case of cocoanut trees and other fruit bearing trees. Therefore what the framer of this definition had in mind was this. It must have increased the value of the holding at that time. It must not only have increased then. It must be increasing now or must remain increased for some time more. That is the idea contained in this definition.

MR. A. THANU PILLAI (*Trivandrum Rural*): Is it the idea that the increase should be maintained irrespective of every other condition?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Today it has increased and tomorrow it should not disappear. For example, with regard to rubber plantations, some time back rubber was fetching good price. Some 6 or 7 years back it might have been a very valuable tree. At the present day it is not as valuable as then. In fact it has become a burden on the land. It is possible to suggest similar instances also. Therefore the prominent idea contained in the definition should not be lost sight of. Therefore I submit that, in addition to the existing confusion, no other confusion should be introduced by an amendment. I should like to be enlightened on this point. What does that "on which it is based" indicate? This should be done, so that we may follow the discussion clearly.

MR. R. RAMAN PILLAI (*Changanacherry cum Peermade II*): I oppose the amendment. Today improvement on a holding may increase by Rs. 10 the holder takes all the yield and enjoys it. Tomorrow the improvement may deteriorate. The definition is that the value of the holding must be increased and that increase should be maintained to some extent at least for a few years, at least for a period at which the yields are capitalised. So the value of the holding must be in an increased condition; otherwise it cannot be called as improvement. That is why that particular expression is used in the clause.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Suppose the improvement under consideration is a building fetching a monthly rent of Rs. 10 and suppose there is no likelihood of the rent going up beyond Rs. 10 for four years to come. In such a case can that be called an improvement according to the provision under discussion because the improvement does not continue to increase?

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*): If it does not decrease the value of the property, it may be considered as an improvement. The wording is that the improvement should be in an increasing condition which means that the value of the holding should not be in a decreasing condition.

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): Is not the word "or" better than the word "and"?

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*): Either the one or the other will do.

MR CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): Suppose the value has increased but does not continue to increase. Then what is the position?

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*): But the condition that the value of the holding is increased must be maintained; that is sufficient.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): According to the provision the value of the holding must have increased but not decreased. Suppose it remains stationary and does not continue to increase. What will be the position in that case?

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*): If it is stationary, it is not quite satisfactory. The expression means only that the value of the holding should, by any act of the holder, be higher than what it was before that act so that it should be called an improvement.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): Cannot it be better said?

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*): How?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): Because the member said that it does not continue to increase.

DEPUTY PRESIDENT: Let us have some order.

I should like to warn the House about the possible danger. I find questions are being put to the member in charge of the Bill by various members. If a Government member is in possession of the House and questions are put and answers elicited, they may very often be binding on the Government. But the usefulness of a law depends upon its interpretation to a very great extent put upon the language of the law, not by any member of the House or the House by a collective body, but by an independent judicial tribunal. Whatever may be the idea in the movers' mind and however a member may be satisfied with the assurance given by the member in charge of the Bill, I put it to the House that all that will have no utility. And it behoves the House to consider all aspects of the question, and if the House is convinced of the changes the changes must be effected. Any amendment moved by a member will not advance the position a bit.

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MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*) : This is what was enacted by our legislature forty years ago. I do not think there is any necessity for the alteration suggested.

As regards the doubt entertained by the honourable member Mr Krishna Pillai, I do not think that there is any room for it. The holdings under the Jenmikudiyan Regulation are governed by that Regulation and the conditions under which those holdings are enjoyed are different. Those conditions may be contained in the lease deeds or mortgages under which the holdings are held.

MR. PUTHUPALLI S KRISHNA PILLAI (*Quilon II*) : What has the member to say with regard to the condition under which a trespasser holds land ?

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*) : Where there is no particular demise, the conditions herein will apply.

MR. K. C. ABRAHAM (*Kottayam II*) : Sir, I wish just to add one word in opposing the amendment because the only question before the House is one of interpretation of this expression, namely, the "value of the holding has been, and continues to be increased." In that connection my submission is that there has been some confussion of thought between the amendments, on the expressions "continues to be increased" and "continues to increase". If by the words that are put down in the Bill it is meant that every improvement which has once been effected on the land must continue to be increasing its value at the time of assessment, then certainly this wording is not correct. But if on the other hand it means that improvement has been made and it is considered to have increased the value of the property and if the improvement continues to sustain the increase of value, then certainly I submit there is nothing unreasonable in the wording. Because whatever may be the interpretation in the mind of any honourable member of this House the question comes to be finally what ought to be the interpretation by the judicial tribunal where these expressions are ultimately interpreted.

In regard to buildings, for example, erected on the land, certainly without further improvements they must deteriorate in value. If at the time of assessment a new building has been bound to have deteriorated then the depreciation in value will have to be considered in the assessment of improvement. That is an intention implied in the wording as it is, This means that even if an improvement does not continue to increase the value of the holding, it keeps the value 'increased' and counts.

As Mr. Krishna Pillai pointed out in cases of assessing value of pepper vines, provision has been made that if the pepper vines cease to be bearing within three years from the date of assessment, then it would not be considered as an improvement. The very fact that pepper vines can be assessed for three years indicate that though it might after some time continue to diminish in value, yet still it may be

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assessed as improvement at the time of assessment of the holding. Therefore my submission that the proposed amendment of the words "the holding has been and continues to be increased" does not touch the point,sought to be lighted up.

MR. R. SIVARAMAN NAIR (*Tiruvalla II*): May I know from the member whether the same meaning cannot be obtained by the omission of the words 'to be, after the words 'continues'?

MR. K. C. ABRAHAM (*Kottayam II*): Taht may be obtained; but the present perfect form is not.

MR. R. SIVARAMAN NAIR (*Tiruvalla II*): Sir, we have heard the arguments advanced on behalf of the amendment as well as against the amendment. No doubt, there will be some confusion by retaining all these words "holding has been and continues to be increased". The mover of the amendment has explained the meaning which he intended to convey by words. I think the same meaning can be obtained by the omission of the words "to be" after "continues" and before increased", and the previous portion to be left as it is.

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): Cannot the word "been" also be omitted.

MR. R. SIVARAMAN NAIR (*Tiruvalla II*): The word "been" also may be omitted.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Sir, that seems to be a new amendment altogether.

DEPUTY PRESIDENT: That is only an observation and not an amendment. There is a difference between an observation and an amendment.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): My friend has made a suggestion.

DEPUTY PRESIDENT: I rule that Mr. Sivaraman Nair made an observation and not an amendment.

MR. R. SIVARAMAN NAIR (*Tiruvalla II*): With the permission of the Chair, I will move this as an amendment.

DEPUTY PRESIDENT: If that permission had been applied for in time, it would have been considered.

MR. R. SIVARAMAN NAIR (*Tiruvalla II*): Some indulgence may be allowed if the Chair is so inclined,

DEPUTY PRESIDENT: There is a limit to indulgence.

MR. R. SIVARAMAN NAIR (*Tiruvalla II*): Then let it be a suggestion, if it cannot be an amendment.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Sir, I oppose the amendment under consideration; and in doing so, I wish to make an observation with regard to the clause in question.

Sir, this expression "the value of the holding has been and continues to be increased" has been in our Statute Book for more than 30 years. It has acquired a technical meaning and I believe that in the various other Tenancy Acts of British India, for instance, the Malabar Compensation Improvement Act, the Bengal Tenancy Act, the Deccan Tenancy Act, which define the word 'improvements" this expression has been used and rightly too, Sir.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*) : May I know whatever is contained in the British Acts is copied here?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*) : I think the framers of the Regulation—

DEPUTY PRESIDENT : Mr. Narayana Pillai, you need not answer that question because I distinctly remember the words you used. Mr. Narayana Pillai said "I believe", and a man who said "I believe" cannot give that assurance.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*) : Sir, it is the idea that underlies this expression that has to be understood. It is to bring out the idea of permanency that we consider the question of improvements and it is with this idea that the clause has been adopted by the Legislature. Now, works executed in a holding as defined in the Regulation may be improvements or may not be improvements. All the works executed in a holding need not necessarily be improvements. For instance, certain works are so temporary in their nature and in their existence or they are evanescent, so to speak. They are not permanent. For example, take the case of standing crops.

As a matter of fact, that is the present practice also when the Courts assess the value of improvements on properties. Even now, standing crops are not taken into account in assessing the value of improvements. The reason is obvious. They are not permanent. They are not going to remain on the property for a sufficiently long time, giving any substantial benefit to the owner of the property. Standing crops are only temporary and will disappear in a few months' time, during harvest season. It is that idea that is sought to be conveyed by the expression 'and continues to increase'. The idea is that things which are not going to last for a substantial period should be excluded from the definition of 'improvements'.

DEPUTY PRESIDENT : So, you contemplate degrees of permanence.

The House adjourned for lunch at 1-2 P. M. and reassembled at 2-58 P. M.

MR. PACODE A NARAYANA PILLAI (*Vilavankod*) : I submit, Sir, that the definition, as it is given in the Bill, brings out the idea very clearly. Probably some verbal improvements may be made if necessary; for instance, instead of 'continues to be increased' we may say 'continues to remain increased'. Perhaps, that would make the idea underlying the provision even more clear than it appears now.

My opinion therefore is that the amendment proposed by Mr Karayalar will not serve our purpose; because we do want to exclude evanascent and temporary things, for instance, standing crops. Standing crops are certainly of some value. But, it cannot be said that they permanently increase the value of the holding, because they will disappear with the harvest. Certainly such temporary items should not be valued as improvements. There must be the idea of permanence in

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the definition. As I said, even at present, the Courts do not include standing crops and such temporary items in valuing improvements.

MR. K. R. ELENKATH (*Kalkulam I*): May I ask whether there is not another clause in the Bill which includes both permanent and temporary additions to the value of the property?

MR. PACCDE A. NARAYANA PILLAI (*Vilavankod*): Sir, we are now considering the definition of the word 'improvement'. We must bear in mind that it is this definition that has to be applied whenever the word 'improvement' occurs in the Bill.

As regards the change in the wording suggested by Mr. Puthupalli Krishna Pillai, his difficulty was that the meaning of the word 'basis'.....

DEPUTY PRESIDENT: The difficulty of Mr. Puthupalli Krishna Pillai was chiefly with regard to the word 'it' in the definition. His point is that it is not clear as to what that 'it' stands for. If it refers to holding, Mr. Krishna Pillai contends that the definition ceases to convey a clear idea. Not that I am giving my view of the matter; I am only suggesting it to you.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): On a point of order, Sir. Mr. Truscott is not in his seat; he is occupying another seat.

DEPUTY PRESIDENT: I do not generally take any notice of such small matters. If Mr. Truscott rises in another seat, then I shall consider the question.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): I may submit, Sir, that there has been a definite ruling that it is not in order for a member of the House to occupy another member's seat.

DEPUTY PRESIDENT: It is not in order for a member to exercise or avail himself of any of the privileges of membership from another member's seat. That is the rule.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Sir, am I in possession of the House, or Mr. E. V. Krishna Pillai?

DEPUTY PRESIDENT: One mistake cannot be set right by another mistake.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): As I was submitting, Sir, the definition as it stands brings out the underlying idea very clearly. It may be left as it is. Perhaps some verbal alterations may be made, if necessary.

MR. K. R. ELENKATH (*Kalkulam I*): Sir, the controversy is about the retention of the definition as it occurs in the Bill. The main reason advanced for such retention is that this definition has been borrowed from the Jenmi Kudiyan Regulation. I have my own doubts, Sir, whether, on that ground we should leave the definition as it is, if it really requires amendment. At the same time I doubt very much whether the amendment now proposed by Mr. Karayalar will in any way be an improvement on the definition contained in the Bill. I would suggest that the words

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[Mr. K. R. Elenkath.]

'*and continues*' may be substituted by "and permanently or materially increased". Then, I think,, the idea underlying the provision will be quite clear.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Will the planting of a tree permanently or materially increase the value of a holding ?

MR. K. R. ELENKATH (*Kalkulam I*) : That depends upon the tree that is planted ; if it is a cocoanut tree for instance, it will lead to a permanent or material increase of the value of the holding.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Will a cocoanut tree remain for ever ? After all, it may cease to exist after a hundred years.

MR. K. R. ELENKATH (*Kalkulam I*): Permanence only suggests a reasonably long period for purposes of the kind.

DEPUTY PRESIDENT : 'As long as it lasts' cannot make a thing permanent.

MR. K. R. ELENKATH (*Kalkulam I*): It must be remembered Sir, that improvements are assessed at a particular time. Things which are considered permanent or substantial at that time will be taken into consideration in making the assessment. As for the Law Member's observation about permanence., Sir, I hold that even a building cannot be considered to be permanent for it won't last as long as the world itself would last.

DEPUTY PRESIDENT : You also contemplate relative permanence ?

MR. K. R. ELENKATH (*Kalkulam I*) : Yes, Sir.

That was why I suggested the expression 'permanently or materially,' so that all improvements worth mentioning will come either within the one or the other, *viz.* permanent or material. In Travancore, the planting of a cocoanut tree is certainly a material improvement.

DEPUTY PRESIDENT : The law contemplates improvements which are of value. and improvements which are not of value. It does not make any distinction between improvements which are material, and improvements which are not material. The idea of the definition is that, even among improvements which are of any value, only those which are permanent should come within the definition. Permanence is one of the necessary conditions for a valuable improvement being taken into account.

K. R. ELENKATH (*Kalkulam I*) : That is exactly my view, Sir ; continuity of the object of the improvement and its benefit seems to be the main point. The definition must clearly indicate that. That seems also to be the general trend of the debate. The question is whether the value of the piece of land has been enhanced by the improvement, and also whether such enhancement is likely to continue for a fairly long time.

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With regard to the question put to me by the learned Law Member about cocoanut trees not lasting beyond a hundred years, I have to say only this. Judged by that standard, Sir, there is nothing in the world which can be called permanent. As I said, even the construction of a building cannot be said to be a valuable improvement. That was why I suggested as a safeguard that the word or 'materially' may be incorporated in the definition. I certainly do not think that the amendment proposed by Mr. Karayalar is going to make the meaning of the definition clearer than it is now.

MR. P. K. NARAYANA PILLAI (*Amalapuzha I*): I think Sir, that the matter has been sufficiently discussed. The meaning of the expression '*and continues to be increased*' has been very clearly explained by my friend Mr. Abraham if not also by some other members of the House.

The underlying idea of the definition so far as I have been able to make out is that the value of the holding should not only be increased by the improvement, but it should promise the prospect of the continuance of such increase of the value of the holding. For example, if it is found that, although the value of the property is raised for the time being, but the enhanced value is likely to go down within a few days, then it will not be taken to be an improvement under the definition in this Bill. The word 'increased,' has to be looked upon as an adjective, like 'white' for instance. Then, there will be no trouble whatsoever in the interpretation of the definition. Let us say, for instance, 'the property has been rendered *white* and continues to be white.' Is there any difficulty in understanding the expression? None. It is such a sort of part of speech that is meant by the word 'increased' in the definition.

Sir, this definition has been accepted in the Jenmi and Kudiyan Regulation of 1071 which Regulation itself borrowed this definition from the Punjab Tenancy Act, if I am not mistaken. No difficulty has so far arisen on account of it.

MR. N. E. VARUGHESE (*Tiruvalla I*): May I know whether the definition in the Bill is liable to be interpreted in different ways?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Not in the least. That is what I think. Ultimately, Sir, it is the learned Judges of the High Court that have to interpret it. I submit, we can certainly trust that they will interpret it properly, especially since they have been dealing with it for the last so many years in connection with the Jenmi Kudiyan Regulation of 1071. They have decreed the value of improvements in several cases. They know what it is. It has to be remembered that the hitherto accepted definition of 'improvements' is not changed in this Bill. That is a safety. We need be anxious only if any change is sought to be made. As it is, we know, and our Courts know, what this definition means. We are only keeping to the old definition which has been current for so many years.

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[Mr P. K. Narayana Pillai.]

With regard to the difficulty raised by Mr. Puthupalli Krishna Pillai, as I said, this definition has been borrowed from the Punjab Tenancy Act, at a time when, in Travancore, trespassers were not, under the law, entitled to the value of improvements. That development, in Travancore law, came in only comparatively recently during the days of Mr. Justice Hunt. Certainly, that was not the law in 1071 when this definition was borrowed from the Panjab Tenancy Act. However, so far as trespassers are concerned, there is no condition under which they hold the properties. In the case of others, mortgagees and lessees for instance, they hold the properties under certain conditions.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): In view of the definition of 'holding' as 'parcel or parcels of land', may I ask how the expression 'holding on which it is based' can be accepted? Can we say 'holding on which parcel of land is based'?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): I must frankly say Sir, , that I do not appreciate or perceive my friend's difficulty at all.

DEPUTY PRESIDENT: So far as I have been able to follow him, Mr. Krishna Pillai's difficulty seems to be as to what that word 'it' relates to, what is the antecedent of that 'it' in the expression 'on which *it* is based', whether it refers to 'improvement' or 'holding'.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Evidently, 'holding'.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): Sir, I am inclined to support the amendment moved by Mr. Karayalar. That though the words "has been and continues to be increased" have been used in the Jenmi Kudiyan Regulation also and they have given room for no misinterpretation, I submit, is no argument for opposing the amendment. This definition of "improvement" is contained not in this General Clauses Act and cannot apply to other Regulations. Under the Jenmi Kudiyan Regulation, it can apply only to cases of eviction and to recovery of lands from simple lessees. In the case of the *kanapattam* tenants, it is a well known fact that under the Jenmi Kudiyan Regulation their right of occupancy has been made permanent and no question of eviction actually arises. Therefore the necessity for the interpretation of this clause has never arisen. The same may be said of recovery of lands from simple lessees. The old jenmies consider it *infra dig* to evict their tenants even though they may be simple tenants. By tradition and habit they do not as a matter of fact evict even simple tenants. Therefore no necessity has as yet arisen for the interpretation of the definition of improvements given in the Jenmi Kudiyan Regulation. But that definition does not at all apply to improvements in the case of other than *jenmom* lands. There is no statute, as far as I am aware, defining improvements in the case of lands other than those contemplated by the Jenmi Kudiyan Regulation and the general law of improvements and ordinary common sense

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of the Judges have been used in interpreting what is an improvement and what is not. As far as I know, what is an improvement has never been settled. Therefore the fact of the existence of the definition in the Jenmi Kudiyan Regulation cannot obviate the necessity for making the definition clear and unambiguous. We have therefore now to see whether the definition in the Bill now before us is liable to misinterpretation. "Improvement" is defined as meaning any work by which the value of the holding has been and continues to be increased" so that two conditions must co-exist before a work can be called an improvement. it must have increased value of the holding and that value must continue to increase or at any time continue in the increased condition.

DEPUTY PRESIDENT: It is not 'continue to increase', it means that what has increased must continue to increase.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): That is not how I understand it. The value of the holding must have increased and the value must continue to increase or be in the increased condition.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): That is not the expression used there.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Is it not 'continues to be increased' and not 'continues to increase'?

MR CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): Yes. It does not make much difference to my mind. In the first place, the value must have increased and then the value must continue to be increased. For instance, in the case of a cocoanut garden, the yield reaches the maximum in about 15 years. Then the value does not continue to be increased; but it probably remains stationary for a long time and then begins to deteriorate. Then according to the definition of improvement under this Bill, the improvement will cease to be an improvement at least when the trees begin to deteriorate. Now then it may be asked—if the value diminishes why should the improvement be considered as an improvement? I say it should be considered an improvement for this reason. Originally the value of the holding before there was any improvement was the value of the ground. Subsequently the value of that land has increased after the plantation of some trees. But by the deterioration of the trees the value of the land has not decreased but has only increased in value. Therefore the fact that the yield has ceased to increase but on the other hand has begun to deteriorate does not at all affect the question whether that is an improvement or not. It continues to be an improvement so long as the value of the original holding has not decreased. If that decreases, it is altogether a different matter. The question is whether the value of the holding is higher at the time of valuation than it was when the holder obtained it. If it is, that which caused the increase must be treated as improvement.

DEPUTY PRESIDENT: I wish to put a question to the member. Mr. Changanachery Parameswaran Pillai has expressed his view which the House has listened to. My question is—would he apply the same

LIBRARY ARCHIVES Kerala Legislative Assembly

[Deputy President.]

principle to buildings erected on land held by a person other than the owner even after the buildings which once had a value, deteriorated, perhaps lost the whole value, because the improvement there would mean either plantations or buildings and so forth. I am just inviting the member's opinion

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): As far as I have been able to understand the question, I may say that the building can lose its value either by being destroyed or becoming absolutely useless. In either case it ceases to be useful and therefore there is no improvement to be valued at all. But if it has a value, even though the original value has deteriorated, it continues to be an improvement.

MR. M. SIVATANU PILLAI (*Tovala*): May I know whether this modification will satisfy the member 'the value of the holding has been increased and continues to be so' ?

DEPUTY PRESIDENT: I must observe, while appreciating the offer made at this stage by Mr. Sivatanu Pillai, that even if it is accepted by the member it will not help us a bit.

MR. M. SIVATANU PILLAI (*Tovala*): I put the question only to clear a point.

MR. KAYALAM PARAMESVARAN PILLAI(*Additional Head Sirkar Vakil*): Cannot the expression "continues to be increased" be interpreted as meaning "continues to remain increased"?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): That is what I am going to say. I say it will lead to this difficulty. The improvement may not continue in the same increased condition but may begin to deteriorate after some time. I think it must be made clearer. Either it may be interpreted as meaning that the increase must continue or it may be interpreted that the increased condition should be stationary and should continue as such without deterioration. It is liable to either of this interpretations and therefore it is better that it is made clear.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I think that, as the amendment stands, I have to oppose it. At the same time I can see that there is some difficulty in understanding the definition as it is put in the Bill. I do not, however, agree that there would really be any occasion for misunderstanding the pur port of what is sought to be conveyed by the definition. The idea involved in the definition has been clearly pointed out by Mr. Abraham. It is that there must have been some increment in the value of the land and that this increment must continue to exist. To illustrate this by a concrete example. If a land the value of which is Rs. 1,000 is valued after improvements at Rs. 2,000, it follows that the value of the land has been increased. When we say that the increment must continue, it does not mean that it should always be Rs. 2,000 and no less. Even if the increase of value is only Rs. 500 on some later occasion and not

LIBRARY ARCHIVES Kerala Legislative Assembly

quite Rs. 2,000, still the increase of value continues. In other words, the increase need not be to the same extent. Even if it is one rupee and the value is Rs. 1001, the value of the land continues to be increased. But if the value has gone down, if the land was originally valued at Rs. 1,000 and the improvement is also valued at Rs. 1,000, and at the time of the determining the improvement the value of the land is only Rs. 900, then the increase in value does not continue. The value of land increased once; but the increase does not continue. That is the idea involved in the definition. It does not mean that the same extent of increment must continue till the very last or till the determination of the value of the improvement. That is the basic idea. The present amendment as moved by Mr. Karayalar does not do anything of the sort. That goes in fact against the very idea involved in this clause. I think that many honourable members supported the amendment in the belief that it expresses the idea that the increase in value is to continue to exist till the time of valuation. If that idea had been expressed in some clearer language, I should have found no objection to the amendment. It is well known that when a law is being enacted the attempt must be to use such language as will make the law understood by every *bona fide* reader. Besides that, the language must be such as would not make law misunderstood or misinterpreted even by any *mala fide* reader. If with a view to that any change of language had been suggested, I have no doubt that the mover of the bill would have accepted it and I too would have accepted it. But what is the amendment of Mr. Karayalar? He only wants "and" to be omitted and "or" to be substituted, and the result will be that the value of the land made only be either increased or continue to increase. So even if there be no increase in value at present, there may be an improvement on the ground that the value increased once upon a time. If, for instance, a building was put up once on a land, the value increased once and even though the building ceased to exist still, there will be improvement because the value did increase once.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Suppose a building put up on a land has been destroyed, can the value be said to have increased?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The value of the land has been increased once upon a time. If Mr. Karayalar wanted to bring out the idea that the increment must continue, I am prepared to agree.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): If "has been" is substituted for "had been" to indicate a continuance of the increase, will that be more suitable?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Then I would say that the amendment is useless or purposeless. I thought Mr. Karayalar wanted the idea in the definition to be changed. If Mr. Karayalar does not want the idea to be changed, then I have to oppose his amendment as purposeless.

LIBRARY ARCHIVES Kerala Legislative Assembly

DEPUTY PRESIDENT: While recognising that there should be the improvement continuing, you would not take into consideration the particular degree of deterioration if deterioration happens?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): What I say is that there must be some increase in value at the time of valuation of the improvement. The decrease in value is immaterial unless it is such as to decrease the value of the land beyond what it was originally, in which case there cannot be any continuance of increase in value.

MR. N. E. VARUGHESE (*Tiruvalla I*) സാർ, ഞാൻ ഈ ഭേദഗതി അനുകൂലിക്കുന്നു. ലാമെമ്പർ ഇവിടെ പ്രസ്താവിച്ചതു്—

MR. K. PADMANABHAN (*Chirayinkil I*): The member is speaking in Malayalam.

DEPUTY PRESIDENT: I think there was a ruling in the morning that Mr. Varughese should speak in English. Is that not so, Mr. Varughese?

MR. N. E. VARUGHESE (*Tiruvalla I*): There was no such ruling, Sir. I requested the Chair in the morning to allow me to speak in English without prejudice to my right to speak in Malayalam.

DEPUTY PRESIDENT: I want to know what actually took place.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): What I remember is that the President stated that, when Mr. Varughese would make a request that he should speak in Malayalam, it will be considered on its merits.

DEPUTY PRESIDENT: Mr. Varughese, are you desirous of talking in Malayalam?

MR. N. E. VARUGHESE (*Tiruvalla I*): Yes, Sir.

DEPUTY PRESIDENT: I give that indulgence.

You want to talk in Malayalam, because you think you are not quite well up in English. It is a question of language. My point is you are not able to put a clear definition in the English language before the House on this subject.

MR. N. E. VARUGHESE (*Tiruvalla I*): ലാ മെമ്പർ ഇവിടെ പ്രസ്താവിച്ചതു് ഇംപ്രൂവ്മെൻറ് എന്ന പദത്തിൽ യാതൊരു ഉർവ്യാഖ്യാനത്തിനും ഇടയില്ലാത്തതുകൊണ്ടു് ഈ ഭേദഗതിയുടെ ആവശ്യമില്ലെന്നാണു്. മാന്യമെമ്പർമാരായിരിക്കുന്ന മി. പി. കെ. നാരായണപിള്ളയും, മി. പങ്ങനാശേരി പരമേശ്വരൻപിള്ളയും പലവിധത്തിൽ ഇതിനു വ്യാഖ്യാനം കൊടുത്തിരിക്കുന്നതുകൊണ്ടു് അവരെക്കാളും മഹാന്മാരായിരിക്കുമോ ഈ പദത്തിനു ഒരു നീതിന്യായക്കോടതിയിൽ വ്യാഖ്യാനം കൊടുക്കാൻപോകുന്നതെന്നാണു് എനിക്കു സംശയം. (മി. എം. ശിവതാണുപിള്ള, ഹീയർ. ഹിയർ;) ഇവിടെതന്നെ ഒരഭിപ്രായവ്യത്യാസം

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വന്നിരിക്കുന്നതുകൊണ്ട് ഈ നിയമസഭയുടെ മുമ്പാകെ ഉർവ്യാഖ്യാനത്തിനു ഇടകൊടുക്കാതിരിക്കത്തക്കവണ്ണം എത്രയും വിശദമാക്കുക എന്നുള്ളതാകുന്നു.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): ഉർവ്യാഖ്യാനത്തിനു ഇടകൊടുക്കാതിരിക്കത്തക്കവണ്ണം വല്ല ഭേദഗതിയും ഉണ്ടോ?

MR. N. E. VARUGHESE (*Tiruvalla I*): ഇങ്ങനെയുള്ള കാര്യങ്ങളിൽ മുമ്പാകെവഹിച്ച് ഉർവ്യാഖ്യാനത്തിനിടകൊടുക്കാതിരിക്കത്തക്കവണ്ണവും, ഈ സഭക്കു അപചയാതെ ഉണ്ടാകാതിരിക്കത്തക്കവണ്ണവുമുള്ള ഭേദഗതികൾ ഉണ്ടാക്കാനാണ് ലാ മെമ്പറെ വച്ചിട്ടുള്ളതു്. (ചിരി.)

DEPUTY PRESIDENT: ഇതിൽ എന്തെങ്കിലും ദുഷ്യമുണ്ടെങ്കിൽ അതിനെ ശരിപ്പെടുത്താനുള്ള മാർഗ്ഗം മി. വറുഗീസിനില്ലെന്നാണോ പറയുന്നതു്?

MR. N. E. VARUGHESE (*Tiruvalla I*): അതുകൊണ്ടാണ് ഞാൻ ഈ ഭേദഗതിയെ അനുകൂലിക്കുന്നതു്.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): വേറെ ആളുകൾ ഉർവ്യാഖ്യാനം ചെയ്താൽ ലാ മെമ്പർ എന്തുചെയ്യും?

MR. N. E. VARUGHESE (*Tiruvalla I*): അതിനുതക്കവണ്ണം ഡെഫനിഷൻ വിശദമാക്കണം.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): മെമ്പർക്കു അങ്ങിനെ ഒരു ഡെഫ്നിഷൻ കൊണ്ടുവരാമോ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): ഈ അമൻഡുമെൻറ് സ്വീകരിച്ചാൽ ഉർവ്യാഖ്യാനത്തിനു ഇടയാകാതിരിക്കുമോ?

MR. N. E. VARUGHESE (*Tiruvalla I*): അതു സ്വീകരിച്ചാൽ ഇപ്പോഴിരിക്കുന്നതിനേക്കാൾ കുറെക്കൂടി നന്നായിരിക്കും.

DEPUTY PRESIDENT: അപ്പോൾ മെമ്പർക്കു ഇംഗ്ലീഷ് ഭാഷയുടെ രസികത്വവും ബുദ്ധിമുട്ടുകളുമൊക്കെ സംശയമുണ്ടല്ലോ?

MR. N. E. VARUGHESE (*Tiruvalla I*): എന്നെ മലയാളത്തിൽ സംസാരിക്കാൻ അനുവദിച്ചു. ഞാൻ മലയാളത്തിൽ സംസാരിക്കുന്നു. ഇംഗ്ലീഷ് ഭാഷ എനിക്കു മനസ്സിലാക്കാൻ കഴിഞ്ഞിടത്തോളം ഇതിൽ രണ്ടുവിധത്തിൽ അഭിപ്രായവ്യത്യാസം വരാമെന്നു എനിക്കു തോന്നുന്നു. സിലക്ട് കമ്മിറ്റിയിലെ വാദപ്രതിവാദങ്ങളും ഒരു കോടതിക്കു ആധാര

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[N. E. Varughese.]

മല്ലെന്ന് ഒരു വിധിയുള്ളതായി എനിക്കറിയാം. അതുപോലെതന്നെ ഇതിനു ഉർവ്യാഖ്യാനത്തിനവകാശമില്ലെന്നുള്ള ലാ മെമ്പരുടെ അഭിപ്രായവും ജുഡിഷ്യൽകോടതിയിൽ നോട്ടുചെയ്യത്തക്കതല്ല.

DEPUTY PRESIDENT : But the member said some time ago that the opinions expressed by Mr. P. K. Narayana Pillai and by Mr. Changanasery Parameswara Pillai are very sound. In that case is he justified in making this statement about Mr. Kayalam Parameswaran Pillai? Let us not speak of personalities.

MR. N. E. VARUGHESE (*Tiruvalla I*) : ഞാൻ ഭേഗതിയെ അനുകൂലിക്കുന്നു.

MR. N. K. KRISHNA PILLAI (*Neyyattinkara I*) : Sir, no doubt there is much force in what Mr. Varughese said about the interpretation of statutes. Certainly if this expression "continues to be increased", is liable to the interpretation that the value continues to increase.—

DEPUTY PRESIDENT : To be or not to be is not the question.

MR. N. K. KRISHNA PILLAI (*Neyyattinkara I*) : With reference to the ruling of the Chair, I must admit that it is very difficult.

MR. A. THANU PILLAI (*Trivandrum—Rural*) : Does not the member see that the previous words are "has been increased" ?

MR. N. K. KRISHNA PILLAI (*Neyyattinkara I*) : Yes. Anyway there is no doubt that the phrase is liable to be misinterpreted. We are now legislating on a subject which is liable to affect the ryots very much.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*) : May I know whether there is not a difference in meaning between the expressions "continues to increase" and "continues to be increased" ?

MR. N. K. KRISHNA PILLAI (*Neyyattinkara I*) : There is. But since we are legislating and since there is some room for misinterpretation, to me it appears that a re-drafting, so far as the phraseology is concerned, is necessary. When the Law Member himself said that this phraseology is liable to be misinterpreted.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : What the Law Member said was the best was being done, yet there was difficulty because language is liable to be misinterpreted.

MR. N. K. KRISHNA PILLAI (*Neyyattinkara I*) : My suggestion is that for the expression "continues to be increased" the expression "the increment continues" may be substituted.

MR. K. R. ELENKATH (*Kalkulam I*) : In that case, may I know whether the clause would take into consideration a building once put up but demolished subsequently ?

MR. N. K. KRISHNA PILLAI (*Neyyattinkara I*) : What I mean is that a building will certainly increase the yield of the land.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. P. C. KURIEN (*Kottayam I*) : Sir, —

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*) : I move for a closure.

DEPUTY PRESIDENT : Mr. Kurien is already on his legs.

MR. P. C. KURIEN (*Kottayam I*) : Sir, there is room for honest difference of opinion. The existing definition is what is given in the Jenmi Kudiyan Regulation. As far as I understand, this Bill is not meant to determine the relationship between Jenmies and Kudiyans.

We are not bound by that Regulation.

DEPUTY PRESIDENT : Is there not an idea of recovery of property under the Jenmi and Kudiyan Regulation ?

MR. P. C. KURIEN (*Kottayam I*) : Whatever that be, I do not support the amendment of Mr. Karayalar.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*) : May I know from the member whether there is any difference in the expression "improvements" in the Jenmy and Kudiyan Regulation and the present Bill ?

MR. P. C. KURIEN (*Kottayam I*) : To me it appears there is difference. If the Chair will permit me, I propose to move an amendment.

MR. M. SIVATANU PILLAI (*Tovala*) : In a place where there is tapioca cultivation, according to this definition, will there be any difference in assessing the value of cultivation ?

DEPUTY PRESIDENT : I cannot allow that question at this stage.

MR. P. K NARAYANA PILLAI (*Ambalapuzha I*) : May I know from Mr. Kurien whether he opposes the amendment of Mr. Karayalar ?

MR. P. C. KURIEN (*Kottayam I*) : I have an amendment to make now and I want permission of the Chair.

DEPUTY PRESIDENT : With regard to the request made by Mr. Kurien, my view is that, as far as possible, if things can be done without offending against the established rules of discussion in this House, a very conciliatory view may be taken. Mr. Kurien is a new member of the House, not that a new member is entitled to think in that manner, and if he feels that very much good would come by that amendment, as a special case, because he has made a specific request and appeal, I shall give permission to move his amendment. Mr. Kurien will please put it in writing and pass it over to me.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*) : Is it open to members who have already spoken on Mr. Karayalar's amendment to speak on this amendment ?

DEPUTY PRESIDENT : Yes.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*) : What is the effect of the amendment moved by Mr. Karayalar ?

DEPUTY PRESIDENT : All the amendments that are under discussion will be put to vote one by one.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*) : I move for closure on the amendment moved by Mr. Karayalar.

DEPUTY PRESIDENT : That will be going against the procedure.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. S. J. NAIR (*Nedumangad*) : I support the amendment brought forward by Mr. Karayalar. I quite agree with the arguments of Mr. Changanachery Parmeswaran Pillai in this connection. I am of the opinion that, if the amendment of Mr. Karayalar is accepted, the definition of the word "improvement" would be more definite. As it is, it is not definits. As it stands, though not ambiguous is not quite clear.

DEPUTY PRESIDENT : I am not able to understand what you say. It is not clear.

MR. S. J. NAIR (*Nedumangad*) : The definition, as it is, is not clear. It is a little ambiguous. If the amendment of Mr. Karayalar is accepted, it would make the definition more definite. I will give an illustration. In the case of an improvement made by constructing a big building, at an enormous cost, the value of that building may not continue to increase. If the amendment is accepted under the illustration just now submitted, it is clear that the value of the holding though increased does not continue to increase. For all these reasons, I support Mr. Karayalar's amendment since it would make the definition of "improvement" more clear and definite.

MR. E. V. KRISHNA PILLAI (*Pathanamthitta*) : It will be certainly presumptuous on my part to attempt to explain the existing provision in the bill with a view to bring out the sense clearer. Any way, I wish to repeat what has been stated in definite terms by Mr. Abraham and others. I am afraid that the latest statement made by Mr. S. J. Nair and others shows that there is considerable doubt left in regard to the terms used here. The sense that is conveyed by the provision is that any work should have the effect of having increased the value of properties Also, that state of being increased should continue to some degree. Not that at the time of valuation or at a particular time improvements must have increased the value by Rs. 1,000. It is not necessary for the purpose of this provision that the value should be increased by Rs. 1,000. It is even sufficient if the value of the property continues to be increased to the extent of Rs. 1. Therefore it does not at all convey the meaning that it should continue to increase the value of the property. If the word 'and' is not there and if 'or' is substituted, certainly, the whole sense is spoiled as pointed by the Law Member. I submit there is absolutely no justification in holding that this is liable to be interpreted in a way other than the clear sense that is conveyed by the provision here. It has been held by certain learned members that it is liable to be interpreted more than one way. When such view is expressed by people who had once been entrusted with the responsibility of interpreting legal provisions like this, it is certainly for other members to entertain apprehensions like this. My submission is, either a literal interpretation or a grammatical interpretation can only mean one thing. Therefore it is not at all correct to say that this is either ambiguous or not clear. It is so very clear, so very definite, that, the only sense it can, has been conveyed by it, as it is.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. P. C. KURIEN (*Kottayam I*): Sir, I beg to make the following amendment. Omit the words "been and continues to be".

DEPUTY PRESIDENT: I wish the House will bear with me, when I say in very brief language but not less genuine or less forcible because of the brevity. That is the view. I take it that all of us owe a duty to make the proceedings in this House as dignified as possible. I have been noticing, sometimes an inclination on the part of certain members—I am not going to mention more specifically—an inclination which is not in keeping with the discussion that we are having. We are discussing a very serious matter. Friendly discussions, apart from speeches made openly and addressed to the whole House, will be not in order. I am constraines to say this and I am quite sure it will be taken in the usual good sense which is a characteristic feature of this House.

MR. P. C. KURIEN (*Kottayam I*): My amendment is to omit the words "been and continues to be" in clause 2, sub-clause (iii) line 3.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Does the amendment involve the idea that the improvement must continue?

MR. P. C. KURIEN (*Kottayam I*): No such idea.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Am I to take it that the member does not mean that improvement must continue?

MR. P. C. KURIEN (*Kottayam I*): The only question is has the the holding increased in value when assessed?

DEPUTY PRESIDENT: Mr. Kurien's word means not what it means but what he thinks the words mean.

MR. P. C. KURIEN (*Kottayam I*): I only say.—

DEPUTY PRESIDENT: According to you these words are capable of that meaning.

MR. K. R. ELENKATH (*Kalkulam I*): I second Mr. Kurien's amendment.

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): I support Mr. Kurien's amendment because "has increased" is an expression which refers to the present time, *i. e.* to the time of valuation. The use is present perfect and not merely past.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): How is Mr. Kurien's amendment an improvement?

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): Because in my opinion the language he suggests is happier.

MR. M. SIVATANU PILLAI (*Tovala*): Has not the price of tapioca increased the value?

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): No: in the real sense of the expression it has not increased.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Does the member want the increase in value to continue?

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): Yes, up to the time of valuation.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Is it the position of the member that the clause as amended means that the increment in value should continue?

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): That is exactly my position and I consider that the amendment moved by Mr. Kurien will convey that meaning.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I crave your permission, Sir, to move another amendment for the definition of "improvement".

DEPUTY PRESIDENT: I am very sorry that at this distant period that cannot be permitted. I have been indulgent to Mr. Kurien because he came at an earlier stage of the discussion and the changes which he sought to make in the clause were of the minimum objection. Now Mr. Sambasiva Iyer has given me in writing an amendment which he proposes to make. That changes the whole course of the sentence so that at this late stage I shall not be able to give permission to move the amendment. He can speak on the amendment already moved.

MR. SAMBASIVA AIYAR (*Kunnatnad II*): In speaking on this amendment, I would only refer to the Madras Land Estates Act. There improvement is thus difined .—

> "Improvement means with reference to a holding any work which materially adds to the value of the holding, which is suitable to the holding and consistent with the character thereof, and which, if not executed on the holding, is either executed directly for its benefit or after execution is made directly beneficial to it."

Now the definition of the word improvement in the present bill is this:—

> "Improvement means any work including its product which is suitable to the holding and consistent with the conditions on which it it based, by which the value of the holding has been and continues to be increased and which if not executed on the holding is either executed directly for its benefit or is after execution made directly beneficial to it-"

We find that some changes are attempted in the present Bill. A suggestion was thrown out by the Law Member to give any other definition which will satisfy the purpose, and he assured us that everybody would accept that without any doubt. I refer to the definition that we have in the Madras Estates Land Act and which the Law Member can now accept as the offer was thrown out by him. It would satisfy the objection of Mr. Kurien and would also satisfy the objection of Mr. Karayalar and I am sure the movers of the Bill also can accept it.

DEPUTY PRESIDENT: The House would have been obliged if he had put the amendment in proper time and in proper manner. I am sorry that it was not done. Please confine yourself to Mr. Kurien's amendment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): To the extent that Mr. Kurien's amendment goes, may I know whether the definition of the Madras Estates Act and the definition of the Bill are the same?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : That is a matter not free from doubt. Different views can be taken. If it is argued before a Court we cannot say definitely that the decision will be in one way or the other.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am asking whether to the extent Mr. Kurien's definition of the wording goes and that of the present Bill are the same?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): My submission is it is not. Mr. Kurien's suggestion is that the question of continuity should not come in. As I understand, the provisions in the Madras Act are the same as those of Mr. Kurien's amendment in all material points.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) What is the provision in the Madras Act?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): Work which materially adds to the value of the holding is improvement.

DEPUTY PRESIDENT: Is there any difference between that particular portion contemplated in Mr. Kurien's amendment and not with regard to the whole definition? Only with regard to the scope of the words proposed by Mr. Kurien, that is all.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): May I know whether Mr. Kurien's amendment falls short of the amendment?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): It does.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): May I know the present definition in the bill?

DEPUTY PRESIDENT: You have heard me say that the Madras Section is quite irrelevant. Let us confine ourselves to the issue before the House, that is covered by Mr. Kurien's language. Mr. Sambasiva Aiyar can speak in favour of and against it.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): May I know from the member whether Mr. Kuriyan's definition falls short of the definition in the Bill?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): No, it is an improvement.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*); May I know whether the idea of continuity is brought out in Mr. Kuriyan's amendment?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): No, it does not. I do not support Mr. Karayalar's amendment. I do not say that Mr. Kuriyan's amendment is perfect. As between the two, I prefer Mr. Kuriyan's amendment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Does not the member think that the idea of continuity should be brought out in the Bill.?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): Yes, it should be brought out to the limited extent that I propose in my amendment. There must be some material increase to the value.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): So the idea of continuity is involved?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): Yes, there must be a material increase in the value of the land. I am sorry that my amendment is not allowed to be moved. If it is accepted, everybody's point of view would have been easily met.

DEPUTY PRESIDENT: I am very sorry that Mr. Sambasiva Aiyar, should make that observation. There has been a ruling and nothing more about it. One may feel sorry or one may feel jubilant. But that will not disturb the ruling.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): This amendment is as bad as the previous one, because, if it is accepted, no person who has effected any improvement on the land is going to get a pie by way of compensation. In order that hereafter an improvement shall be an improvement it has to satisfy three conditions. It must be any work "suitable to the holding", it must be "consistent with the conditions on which it is based" and "by which the value of the holding has increased". These are the three conditions. It must be "consistent with the condition on which it is based." Until that condition is satisfied, nobody hereafter is going to get even a pie. Take the position of a person who is unfortunately called by the term "trespasser." By the word trespasser a prejudice is created. He is a person who has broken the law. It is a general word. A man into whose possession the land has come not with the express consent of the owner may be a trespasser. It may be that he has been let into possession or he must have come into possession without being a trespasser. All these classes are known by the name of trespassers. Now clause 3 says "no compensation shall be payable, (*a*) to a trespasser not claiming under a title or claiming under a title which is invalid and which such trespasser either knows to be invalid or by the exercise of due care and caution might have known to be invalid." Suppose there is a trespasser who is still entitled to claim compensation. What are the conditions on which his holding is based ?

"consistent with the conditions on which it is based"

what is the condition on which it is based ?

He must satisfy the court that his improvement is consistent with the condition on which the trespass is based. Then alone he will be entitled to improvement. And what is the condition ? A trespasser does not submit to any condition at all. Now, I say this expression has been unwisely copied from Regulation V of 1071 wherein the clause deals with tenures created with the consent between the parties. That does not apply to a holding under trespass.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I would draw the attention of the member to clause (3) where it is stated that "no compensation shall be payable to a trespasser not claiming under a title or claiming under a title which is invalid and which such trespasser either knew to be invalid or by the exercise of due care and caution might have known to be invalid."

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I am sorry, Sir, that Mr. Sambasiva Aiyar does not find that in spite of it a tres-

LIBRARY ARCHIVES Kerala Legislative Assembly

passer is entitled to claim compensation. Clause 3 is not an absolute prohibition. As I said, when this definition was borrowed from Regulation V of 1071, the borrower should have been careful, but he borrowed it with "the conditions on which it is based." He ought to have understood that these conditions are refered there, but not here.

In the case of Kanapattom documents, they have been on the date of the Regulation treated as leases.

DEPUTY PRESIDENT: I may just mention to you that this is no doubt a dispute on a subject which is germane to the subject under discussion but at the same time the most important thing is the wording of the amendment—whether the wording may be amended as proposed. So the law of trespass and such like things, though they may be noticed, should not be made so much use of.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, an amendment must be an amendment which will be of some use to the clause that is amended. It should bring into prominence some clear idea, some advantage better than that we have by the clause now existing. In my opinion, Sir, as I submitted, no party hereafter is going to get value of improvements under the clause. I will take a concrete example. I execute a mortgage deed directing the mortgagee to be in possession of the property for six years. I come and redeem the property 12 years after and he claims value of the improvements; what are the conditions on which value of improvements should be given?

DEPUTY PRESIDENT: Is it a simple mortgage?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Yes, with a term less than 12 years and after the expiry of 12 years I redeem the property. What are the conditions by which the mortgagee can claim improvements? I gave him only for enjoyment, only for possession. I did not ask him to make improvements. But he has made. Under the law relating to improvements, he is entitled to claim value of improvements—value of improvements which are considered to be improvements under the law. Sir, they are well-known. Our courts have laid down what are the valuable improvements in regard to the agricultural holdings, and in regard to non-agricultural holdings.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): Supposing it is specified in the mortgage deed that no improvement is to be effected and if he effects improvements it does not become consistent with the conditions.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): That point is covered by decided cases. Where it is specified that value has not to be awarded, the express provisions of the agreement will decide the question.

DEPUTY PRESIDENT: Suppose an acre of land is let into possession of another for planting cocoanuts, and a certain rate of the value of improvements is present before the minds of both parties. In that one acre, the improvement over which will fetch 3,000 or 5,000 rupees by planting cocoanut trees, the mortgagee erects a building worth twenty thousand rupees. That primarily would be against the very condition of the mortgage deed. How would such cases be viewed?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): These are cases where the question arising is whether the improvements are consistent with the terms of the conditions of the holding. I am referring to cases in which improvements are claimed and awarded but in which improvements are effected without reference to the conditions. For instance take the case of a mortgage or a simple lease of an agricultural holding.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Is a simple mortgagee entitled to value of improvements.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Yes, every person under the law of the land who has enhanced the value of the holding is entitled to such value.

DEPUTY PRESIDENT: Simple mortgagee is a mortgagee under possession?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): A mortgagee who is not an usufructuary mortgagee for 12 years is a simple mortgagee. But I nevertheless meant a mortgagee in possession for anything less than 12 years.

As I said, I execute a morgage for a term of 6 years. The mortgagee is in possession for 14 years and after that I redeem the property. It is then that he says he has effected improvements.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is he a simple mortgagee?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): It is not a Kuzhikkanom document, where he is entitled to make improvements and hold it for 12 years. I am referring to the simpler form of mortgage.

In such cases, Sir, what are the conditions? I submit that this amendment puts one more clog as it were on the right of the tenant or the right of the person claiming improvement.

DEPUTY PRESIDENT: So you will have the clause as it is?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Yes, because otherwise there will be a lot of confusion.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Sir, I wish to speak a few words upon the amendment of Mr, Kurien.

DEPUTY PRESIDENT: I believe you were a member of the Select Committeee.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Yes, Sir.

The amendment deals with the matter of the omission of the expression "been and continues to be" in the definition. In supporting that amendment my friend Mr. Paramesvara Aiyar referred to it as very desirable on the basis that the present perfect tense has been used. The significance of the present perfect tense is that up to the point of consideration the increase continues. What about the subsequent continuance of that? Is the sense of futurity implied in the present perfect? I submit not. Therefore the question of continuity

LIBRARY ARCHIVES Kerala Legislative Assembly

of which almost all the members are particular is absent in the amendment proposed by Mr. Kurien. Mr. Sambasiva Aiyar referred to the Madras Act. There the expression "adds" to the value, means 'continues to be increased".

DEPUTY PRESIDENT: That is, both being in the present tense.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Yes.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Sir, what I wanted to impress upon the House is that both the idea of increased value and the idea of increment in value being kept up are imported into the definition of the word and it would be impossible to satisfy both these tests in all cases. I shall illustrate it by applying the actual definition as found in the Bill to a specific case. Take the case of a cocoanut plantation. Suppose it has increased in value to a maximum of Rs. 5,000 on account of improvements effected thereon. The value must necessarily decline thereafter. It is on account of the improvement effected that the value has increased. Then according to the definition, although this cocoanut plantation must be considered to have increased in value to Rs. 5,000, improvement cannot be claimed in this case because the value should continue to remain at that level, if compensation is to be claimed for the improvement. This is certainly an absurd result.

MR. E. V KRISHNA PILLAI (*Pattanamtitta*): Suppose it has increased and afterwards it has fallen and continued to remain increased at a level below Rs. 5,000.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): "Continues to be increased means "continues to remain increased" at that level. At any rate, the expression is liable to be interpreted in this manner and has been so interpreted by some members here. That will render the definition useless. In that case no tenant will be entitled to claim compensation for any improvement. This is a contingency which should not be permitted to happen. It is with a view to avoid this difficulty that I imported the word 'or' so that the tenant may be entitled to claim improvements in either case.

DEPUTY PRESIDENT: That is these two things need not co-exist.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Exactly. If they have to co-exist, no tenant will be entitled to claim compensation. Once the value of a holding has been raised to a certain level, then the benefit of it should go to the tenant.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): The member does not want the property to remain increased to any extent on account of improvement.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): By my definition, I suggest that, if the value of the the holding has increased, then the tenant should be entitled to claim the value of the improvements. The idea of continuity of the value of the land at that enhanced level is also combined in this definition. That is my objection. If my amendment is accepted, it will avoid the difficulties I have pointed out. Sir, I press my amendment.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. P. C. KURIEN (*Kottayam I*): With all deference to the learned Law Member—

DEPUTY PRESIDENT: Will you please speak up? I cannot hear a word of what you say.

MR. P. C. KURIEN (*Kottyam I*): I must say, Sir, that the meaning of the word 'continues to be' is not quite clear. I would request the Law Member to explain it.

DEPUTY PRESIDENT: But the Law Member cannot accept your invitation now.

MR. P. C. KURIEN (*Kottyam I*): Then, I withdraw the invitation, Sir. I press the amendment.

DEPUTY PRESIDENT: I shall put Mr. Karayalar's amandment first.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): The subsequent one has to be put first.

DEPUTY PRESIDENT: I shall put Mr. Kuren's amendment first.

The amendment that, in clause 2 (iii), line 3, the words 'been and continues to be' be omitted, was put to vote and lost.

DEPUTY PRESIDENT: I shall put Mr. Karayalar's amendment.

The amendment that, in clause 2 (iii), the word 'and' occurring between 'been' and 'continues' be substituted by the word 'or' was then put to vote and lost.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): I beg to move the following amendment.

Substitute the word 'walls' for the word 'wells' in Explanation I (*e*) to clause 2

Wells have been provided for in explanation I (*a*). Obviously therefore, it should be walls. The context also suggests this word. It may be a clerical or printer's error. All the same it has to be amended. I place the amendment for the acceptance of the House.

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*): I accept the amendment.

DEPUTY PRESIDENT: But, the amendment has not been seconded.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): I second it.

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*): I accept the amendment.

DEPUTY PRESIDENT: Does the House permit Mr. Raman Pillai to accept the amendment?

The question was put to vote and carried. The amendment was accepted.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Sir, I move that in clause 2, Explanation I (*e*), the word 'including kayalas', occurring at the end, be deleted.

Sir, the word *kayala* has not been defined in this bill, nor does it occur in any standard dictionary. Therefore, the word will be meaningless especially in a statute.

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DEPUTY PRESIDENT : Are there not judicial pronouncements about the meaning of the word ?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*) : Does not the word occur in High Court judgments ?

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*) : Does the member think that the word 'kayala' is likely to be understood as something intended for storing water ?

DEPUTY PRESIDENT : That is a very humorous question.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*) : No.

DEPUTY PRESIDENT : Humour is not bad.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*) : The wording of the provision is 'walls like kayalas'

DEPUTY PRESIDENT : The meaning of the word 'kayala' is very clear. 'Kayala' is an ordinary word.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*) : I have absolutely no objection to any another word, the meaning of which is well known or which has been defined in the Bill, being substituted for the word *kayala*.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : I second the amendment.

MR. K. R. ELENKATH (*Kalkulam I*) : In supporting the amendment, I may submit, Sir, that the word '*kayala*' is understood in one sense in South Travancore and in quite a different sense in Central and North Travancore. Sir, words used in a Statute must have definite meanings and must be understood in the same manner throughout the area to which such Statute applies.

MR. A. EASWARA PILLAI (*Kalkulam II*) : What is the meaning that it has in south Travancore ?

MR. K. R. ELENKATH (*Kalkulam I*) : I am going to explain that. My point is this. *Kayalas* are not uniform in their structure throughout the State. For instance, in North Travancore, they are not made of mud ; they are entirely made of bamboos, twigs and other materials including cocoanut leaves, etc.

DEPUTY PRESIDENT : Does Mr. Elankath say, from his own personal knowledge, that *kayala* means fence anywhere in Travancore ?

MR. K. R. ELENKATH (*Kalkulam I*) : I have seen different kinds of *kayalas*. That is why I am submitting that the word is likely to be understood differently in different parts of the State. In the sandy areas we don't generally find *kayalas* made of mud.

DEPUTY PRESIDENT : Merely because a particular member has not been able to see *kayalas* in all parts of the State, the word '*kayala*', cannot be said to mean anything different from what it is generally understood to be.

MR. K. R. ELENKATH (*Kalkulam I*) : I am strongly of opinion, Sir, that '*Kayala*' is not capable of a uniform meaning, and it has not been defined in the bill. So, I am not in favour of the word being retained as it is in the Bill.

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MR. A. EASWARA PILLAI (*Kottarakara*): Sir, I also support the amendment, not on the grounds urged by Mr. Elenkath or by the mover, but for some other reason. Walls and *Kayalas* do not mean different things. They mean the same thing. *Kayala* means wall. The word '*kayala*' is therefore superfluous.

MR. M. SIVATANU PILLAI (*Tovala*): May I ask the member whether we are surrounded, here in this hall, by *kayalas* on all sides? (*Laughter.*)

MR. A. EASWARA PILLAI (*Kottarakara*): We could have said that we are now surrounded by *kayalas* if the walls around us had been made of mud instead of with brick and mortar. Walls may be of bricks and mortar or of mud, Sir.

MR N. E. VARUGHESE (*Tiruvalla I*): സർ, ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു. മദ്ധ്യതിരുവിതാംകൂറിലും വടക്കൻ തിരുവിതാംകൂറിലും—

DEPUTY PRESIDENT: Mr. Varghese, the trend of the ruling in regard to the language of your speech is that, every time you want to speak in Malayalam, you must have the special permission of the Chair.

MR. N. E. VARUGHESE (*Tiruvalla I*): Yes, Sir. മദ്ധ്യതിരുവിതാംകൂറിലും വടക്കൻ തിരുവിതാംകൂറിലും ഭോഷണം ചെയ്യുന്നതിനു ആദ്യമായിട്ടു ചെയ്യുന്ന പ്രവൃത്തി കയ്യാലഉണ്ടാക്കുകയാണു്. കയ്യാല ഇല്ലാതെ ഭോഷണം ആരംഭിക്കുകയില്ല. അതിനാൽ ഭോഷണത്തെ സംരക്ഷിക്കുവാനുള്ള ഭോഷണം ഒരു ഭോഷണമായി ഗണിക്കാൻ പാടില്ലെന്നുള്ള ഭേദഗതി ഓർക്കുമ്പോൾ ഭോഷണമെന്താണെന്നു അറിയാൻ പാടില്ലാത്ത ഒരു ഭേദഗതിയാണോ എന്നു ഞാൻ സംശയിക്കുന്നു.

DEPUTY PRESIDENT: I object to that. I cannot allow that.

MR. N. E. VARUGHESE (*Tiruvala I*): Then; I withdraw, Sir. ഇതു ഹാജരാക്കിയ ആളിനു ഭോഷണം എന്താണെന്നു അറിയാതെ പുറപ്പെടുവിച്ചതാണെന്നാണു് എനിക്കു തോന്നുന്നതു്.

MR. M. SIVATANU PILLAI (*Tovalla*): കല്ലും ചെളിയുമില്ലാതെ വെറും മണൽ മാത്രമുള്ള സ്ഥലങ്ങളിൽ കയ്യാല കെട്ടാറുണ്ടോ?

MR. N. E VARUGHESE (*Tiruvalla I*): കയ്യാല എന്നുള്ള വാക്കുപറയാതെ വാട്ടുകൈയണമെന്നു് അവതരിപ്പിച്ചിട്ടുള്ള ഭേദഗതിയെപ്പറ്റിയാണു് ഞാൻ സംസാരിക്കുന്നതു്.

MR. K. R. ELENKATH (*Kalkulam I*): മൺകയ്യാല എന്നു പറയുമ്പോൾ വേറെ കയ്യാലകളും ഉണ്ടെന്നു മെമ്പർക്കറിയാമോ?

DEPUTY PRESIDENT: മി. ശിവതാണുപിള്ള ചോദിച്ചതു് മണ്ണും കല്ലും കൊണ്ടല്ലാതെ കയ്യാല എന്തെങ്കിലും ഉണ്ടോ എന്നാണു്. അതാ

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യ്യു് 'കയ്യാല' എന്ന പറയുമ്പോൾ മണ്ണുകൊണ്ടോ കല്ലുകൊണ്ടോ ഉണ്ടാക്കിയിട്ടുള്ള അതിരു് എന്നല്ലാതെവേറെവല്ല അത്ഥവുമുണ്ടോ എന്നാണു്. മി. എലങ്കത്തിന്റെ ചോദ്യവും അതുതന്നെയാണു്.

MR. N. E. VARUGHESE (*Tiruvalla I*): കയ്യാല എന്ന പറയണമെങ്കിൽ മണ്ണുകൊണ്ടോ കല്ലുകൊണ്ടോ അല്ലെങ്കിൽ ഇതുരണ്ടും കൊണ്ടോ ഉണ്ടാക്കിയിട്ടുള്ള അതിരായിരിക്കണം. അല്ലാത്തവയെ കയ്യാല എന്ന പറയുന്നതായി എനിക്കറിവില്ല.

MR. K. P. KRISHNAN MENON (*Parur*): കയ്യാല ചെളികൊണ്ടുണ്ടാക്കാറില്ലേ?

MR. N. E. VARUGHESE (*Tiruvalla I*): ചെളി എന്നുദ്ദേശിക്കുന്നതെന്താണെന്നു വ്യക്തമാക്കിയാൽ മറുപടി പറയാം.

വടക്കൻ തിരുവിതാംകൂറിൽ പുരയിടം ഉണ്ടാക്കിയാൽ വലിയ സാഹസികപ്രവൃത്തിചെയ്തു വളരെ പണിപ്പെട്ടാണു് കയ്യാലകഠം ഉണ്ടാക്കുന്നതു്.

DEPUTY PRESIDENT: അതിനെപ്പറ്റി തർക്കമില്ല. 'കയ്യാല' എന്നപദം ഈ ബില്ലിൽ പ്രയോഗിച്ചാൽ അതിന്റെ ശരിയായ അത്ഥം മനസ്സിലാക്കാൻ വിഷമമുണ്ടോ എന്നുള്ളതാണു് ഇവിടത്തെ വാദവിഷയം. അല്ലാതെ ഭേഹണ്ഡങ്ങഠം എന്നു പറയുന്നതിൽ കയ്യാല എന്നുള്ള പദം വിട്ടുകളയണമെന്നല്ല.

MR. N. E. VARUGHESE (*Tiruvalla I*): തിരുവിതാംകൂറിൽ കയ്യാല എന്നുള്ളപദത്തിന്റെ അത്ഥം മനസ്സിലാകാത്തതുകൊണ്ടു് ആ പദം വിട്ടുകളയണമെന്നു പറയുന്നതിന്റെ അത്ഥം എനിക്കു മനസ്സിലാകുന്നില്ല.

MR. A. THANU PILLAI (*Trivandrum-Rural*): തിരുവിതാംകൂറുകാരല്ലാത്ത ജഡ്ജിമാർ ഇതുകൊണ്ടു വിഷമിക്കുകയില്ലേ?

MR. N. E. VARUGHESE (*Tiruvalla I*): അതു മനസ്സിലാക്കിക്കൊടുക്കാൻ നല്ല വക്കീലന്മാരെ ഇവിടെ ധാരാളം കിട്ടും.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): മുനിസിപ്പൽ റഗുലേഷൻ 'കയ്യാല' എന്നപദം ഉപയോഗിച്ചിട്ടുണ്ടോ?

The member did not answer the question.

DEPUTY PRESIDENT: The member has no answer to give.

MR. N. E. VARUGHESE (*Tiruvalla I*): ഭേഹണ്ഡവിലകൊടുക്കുന്ന സംഗതിയിൽ നിയമത്തിൽനിന്നും കയ്യാല ഒഴിവാക്കികളഞ്ഞാൽ അതിനു ഭേഹണ്ഡവില കിട്ടുകയില്ല. ഭേഹണ്ഡവില അതിനുംകൊടുക്കണമെന്നു

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[Mr. N. E. Varughese.]

ണ്ടായിരുന്നാൽ അതും നിയമത്തിൽ പറയുമായിരുന്നു എന്നു വാദിക്കാ നിടയുണ്ട്. അതുകൊണ്ട് ആ പദം രണ്ടാമത്തെ ക്ലാസ്സിൽ ഇരിക്കുന്ന തുകൊണ്ടു ഒരു ദോഷവുമില്ല.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Sir, the main objection raised by Mr. Karayalar is that Judges are liable to go wrong in regard to grasping the meaning of the word 'kayala'.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): I may correct the member. I said that the word is not contained in any dictionary.

DEPUTY PRESIDENT: Mr. Karayalar said that there will be difficulty in understanding the words 'the world at large'.

MR. E V. KRISHNA PILLAI (*Pattanamtitta*): We are mainly concerned with the interpretation liable to be put upon the word by courts of justice. There is absolutely no harm done to us by anybody else misunderstanding or misinterpreting the word. Probably Mr. Karayalar is afraid that somebody might take the word 'Kayala' to be the initial of our Law Member Mr. Kayalam Paramesvaran Pillai. That is the kind of apprehension that is probably entertained by my friend Mr. Karayalar. Well, Sir, Mr. Karayalar is eminently justified in holding a view like that, because we are told that at one time when the sensational Chengannur riot case was being heard here in appeal, there was one learned Judge of the High Court who, after listening to the whole arguments for days and days together, wanted to remand the case on the ground that Aranmula like Kesava Pillai was not cited as a witness. Anyway to obviate such difficulties there is the caution taken by the framer of the Bill here. He says 'permanent walls including kayala'. Certainly nobody will hold that permanent walls include a man like Mr. Kayalam Paramesvaran Pillai. It will only mean something like a wall or serving the purpose of a wall. Certainly, if that word is not put there, there would have been some difficulties. Further the word 'kayala' occurs in the Municipal Regulation and other Regulations and also in the decision of our courts. If 'kayala' which is certainly associated with some idea of Malabar is taken away, I submit that, as is apprehended by my learned friend Mr. Varghese, it may be that only permanent walls would come under "improvements". The Privy Council when they were dealing with a case came across the word 'Uranma' and they immediately referred to the dictionary by Dr. Gundert and took the pain of understanding the meaning of that Dravidian word. That is the way courts of justice are dealing with cases of the kind. It is easier for judges here not to mistake '*kayala*' for 'Kayalam'. If that word is taken away, I submit, Sir, that a very important item of improvement is being taken away to the detriment of the holder. Therefore not only should it not be taken away but it should be retained here as it is. There is absolutely no point made out in the plea that it may be taken away.

LIBRARY ARCHIVES Kerala Legislative Assembly

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*) : Sir, I oppose the amendment. It may be that the word 'kayala' does not find a place in any English dictionary. But in every Malayalam dictionary it does find a place. It is open to courts of justice and to parties and pleaders for knowing the meaning of the word, to refer to those dictionaries. I therefore see no objection to the retention of the word in the Bill.

MR. PACODE A. NARAYANA PILLAI (*Vilarankod*) : May I know the Tamil equivalent of the word ?

RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*) : Cannot say that off-hand.

MR. A. EASWARA PILLAI (*Kalkulam II*) : Sir, I oppose the amendment proposed by Mr. Karayalar Kayala is different in North Travancore from what it is in Central Travancore or in South Travancore.

DEPUTY PRESIDENT : The fencing is different in different parts. 'Kayala' is not different but what functions for a *kayala* may be different in different parts.

MR. A. EASWARA PILLAI (*Kalkulam II*) : Though we have *kayalas* in North Travancore, Central Travancore and South Travancore and *kayalas* built on sandy soil and rocky soil, and though the nature of the *kayala* is different in different places, yet all these are included in this definition. Irrespective of the nature of the material used for a *kayala*, it is an improvement, and whether it is built out of mud or rock or of both mud and rock, it is immaterial. So I oppose the amendment.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*) : Sir, the Honourable member Mr. Karayalar does not contend that any value of improvements should not be awarded for walls known as *kayalas*. His objection is that the word should not find a place in a solemn document like a statute passed by this House. Suppose, Sir, we want to make use of the words 'bananas' and 'milk' in a piece of legislation. Are we justified in printing in one of the clauses '*Ethanpazham*' and '*Pal*' ? Is there not any English expression to be used instead ? I shall just refer to the old books from which these gentlemen borrowed the word. This is after all a regular borrowing, Sir. Section 3 of Regulation V of 1071 deals with all these things. Clause 3 says—

> "The erection of Purayidoms or plantations of farm buildings and of dwelling houses, cattle-sheds or other structures, permanent walls or strong fences which are not of a temporary nature".

That is what they put. "Strong fences which are not of a temporary nature" was the expression that they used. I believe that from the year 1071 onwards till the moment this Bill was drafted by the honourable members of the committee, our courts have been dealing with *kayala* walls as substantial improvements. Notwithstanding the absence of the word '*kayala*' in any statute book, it was being treated as an item of valuable improvement. There must be a suitable expression for denoting it. In a statute all precuations and great care must

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Puthupalli S. Krishna Pillai.]

be used in using only such expressions as are consistent with the dignity of this House which is expected to know the English language as much as any other House dealing with legislative enactments.

DEPUTY PRESIDENT: I believe that, in the knowledge of English this House is not inferior to any other House in India.

MR. PACODE NARAYANA PILLAI (*Vilavankod*): May I know from the member whether the term '*kayala* walls' is not a more compendious expression in the place of the cumbersome expression in the old Regulation 'fences which are not of a temporary nature'? Is it not on account of the more compendious nature that '*kayala*' was used by the High Court?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): If he says that *Ethanka* is a more compendious expression, are you going to accept that? We must suggest some English expression which will bring within its scope the idea denoted by the expression '*kayala*'. Otherwise let us draft the whole thing in Malayalam and then there will be no difficulty.

MR. K. C. ABRAHAM (*Kottayam II*): What is the expression equivalent to '*kayala*'?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): If there is no equivalent expression in English, then you must omit the word. We want to legislate about *kayalas* and we want to find out an English expression which will denote it. How are you going to do that? Other people have done that. Sir, *kayalas* exist in British India.

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*): Does the honourable member think that 'touch-me-not' is the proper English equivalent to *thottavadi*?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): That is not the expression for *thottavadi*. Sir, if this is the sort of wording that is sought to be used, I have absolutely no complaint.

Therefore, we should not be put to the painful necessity of feeling that there is a paucity of English expressions.

DEPUTY PRESIDENT: According to you, "permanent wall" includes a *kayala*?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*). No. Our predecessors were not satisfied with that. They said 'strong' fences which are not of a temporary nature.

MR. A. THANU PILLAI (*Trivandrum—Rural*): May I know whether fences denote *kayala*?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): He is under the impression that bamboos alone will make a fence. A fence may be of anything.

DEPUTY PRESIDENT: It cannot be of granite.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): It can be. But then it will come within the definition of permanent wall. Sir, I say that this word should be deleted.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. V. RAMAKRISHNA PANICKAR (*Karthikapalli II*): Sir, I support the motion. It is not on the ground that there is no definition of the word '*kayala*' in the Bill nor for the reason that it does not find a place in the Dictionary But. I support the motion on the ground that *kayala* is not of a permanent nature. The very word itself denoted that it is a temporary structure. "Ala" means a temporary shed. It is made with the help of the hand. It is not made with help of machinery.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): May I know whether all temporary sheds may be called *kayalas*?

MR. V. RAMAKRISHNA PANICKAR (*Karthikapalli II*): I am only saying that is the meaning of the word in Malayalam.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): May I ask the member whether, according to his defination, the building that is put up yonder may be called a *kayalas*? (*Laughter.*)

DEPUTY PRESIDENT: The discussion is drifting into channels which are alien to the subject under consideration.

MR. V. RAMAKRISHNA PANICKAR (*Karthikapalli II*): These kayalas are not of a permanent nature.

MR. K. M. KURIAKOSE (*Muvattupuzha II*): Does it not mean that the value of improvements cannot be claimed for putting up a *kayalas*?

MR. V. RAMAKRISHNA PANICKAR (*Karthikapalli* II): Yes; on the ground that they are not permanent structures.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): Sir, I oppose the amendment on one ground. To my mind there cannot be any difficulty in the words "including kayalas". These two words are placed within brackets. So when it is said "walls (including kayalas)" it necessarily means something akin to, or relating to or of the nature of walls. If these words are not within brackets, there might have been some difficulty for those who do not know the Malayalam language.

DEPUTY PRESIDENT: Have brackets any particular value in statutes?

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): I submit certainly "including kayalas" are put within brackets immediately after the word "walls". There cannot be any doubt with regard to the meaning of the word "kayyala" and its significance.

MR K. R. ELENKATH (*Kalkulam I*): May I ask whether the expression "including kayala" does not mean that there is some permanency in *kayalas*?

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): *kayalas* may not be as permanent as permanent walls. But of course permanency is not entirelyl acking in the "kayalas".

MR. S. J. NAIR (*Nedumangad*): With the permission of the Chair, may I move another amendment?

DEPUTY PRESIDENT: The proper thing for Mr. S. J. Nair is to ask the permission of the Chair—not say "With the permission of the Chair". That is presuming too much.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. S. J. NAIR (*Nedumangad*) : Sir, I request the Chair to give me permission to move an amendment. My amendment is : delete the word "permanent". If the word "walls" is left alone, the whole thing will be correct.

DEPUTY PRESIDENT : I do not think the permission can be given.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The mover of the amendment Mr. Karayalar did not suggest that *kayalas* should not be treated as improvements. Apparently, most of the honourable members who have already spoken, excepting Mr. Panickar, are of the opinion that *kayalas* should be treated as improvements and value given therefor. The only objection that has been raised is that the word "*kayalas*" is a Malayalam word and not an English word. So long as we cannot find an appropriate English expression, there is no objection to using the Malayalam word. I may add that we have already used the words once in a Regulation. In Section 17 (4) of the Municipal Regulation, the word has been used. I do not think that we will be wrong in following our predecessors in this respect.

MR. S. J. NAIR (*Nedumangad*) : May I know whether the expression "walls" will include "kayalas" also ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : It is doubtful. I wanted to suggest to Mr. Ramakrishna Panickar that the word 'wall' will include *kayalas* walls and not exclude it, and therefore the omission of the word kayyala may not quite serve his purpose. Anyhow it seems to be agreed by most of the honourable members that kayyalas should be treated as improvements.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : What is the objection in copying the words used in the old Regulation ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : That is not sufficiently expressive.

MR. K. R. ELENKATH (*Kalkulam I*) : Did any member object to it on the ground it was a Malayalam word ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Yes.

MR. K. R. ELENKATH (*Kalkulam I*): May I know from the member what he has to say about the objections raised as to the difficulty of distinguishing a *kayala* from other walls ?

DEPUTY PRESIDENT : That question is not in order. It is not for one member to explain to another member in the manner suggested.

MR. R. RAMAN PILLAI (*Changanachery cum Peermade II*) : Sir, I oppose the amendment.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*) : Sir, one of the recognised rules of bill drafting is that, unless a word is defined in the statute, or is capable of being well understood by reference to a standard Dictionary, it should not be used in the statute.

DEPUTY PRESIDENT : Do you press your amendment to a division?

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MR. S. CHATTANATHA KARAYALAR (*Shencotta*): I have not replied.

Sir, one of the recognised rules of bill drafting is that words should not be used in a statute unless they are easily understood or defined in the statute itself.

DEPUTY PRESIDENT: Has the mover of an amendment got a right of reply?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): That has been the practice here all along.

DEPUTY PRESIDENT: Is there any rule like that? I want to make sure of that.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): The proviso to paragraph 67, at page 26, of the Manual reads thus:

> "Provided that nothing in this sub order shall be deemed to give any right of reply to the mover of an amendment to a bill or to a resolution save with the permission of the President."

DEPUTY PRESIDENT: That does not confer upon you, as the mover of the amendment, a right to reply. That is why I asked you whether you press it to a division. If you make a specific request for allowing you to reply, I shall consider that.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Sir, may I have the permission of the Chair to explain my amendment?

DEPUTY PRESIDENT: Yes, please make a short reply.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Sir, words should not be used in a statute unless they are defined in the statute itself or can be understood by reference to a standard Dictionary by the people. Judged by this standard, the word 'kayala' used in the Bill is absolutely meaningless.

MR. N. K. KRISHNA PILLAI (*Neyyattinkara I*): May I ask whether common expressions such as Jenmi and Kudiyan are not used in the statute?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Those words have been defined in the statute.

MR. T. KRISHNA PILLAI (*Neyyattinkara II*): Cannot words which are sufficiently intelligible be used?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): I do not think this word is used in the English Dictionary.

MR. K. GEORGE (*Land Revenue and Income Tax Commissioner*) Is it the solution to omit the word when that conveys a special significance?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): When a word has not been defined or cannot be understood, it should not be used. That is one of the first principles of bill drafting. That is one of grounds.

MR. K. M. KURIAKOSE (*Muvattupuzha II*): Can it convey any other meaning?

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MR. S. CHATTANATHA KARAYALAR (*Shencotta*): The criterion is that the word should be capable of being understood properly by competent authorities who may be engaged in interpreting the law in the course of administration of justice. For instance, a British Indian Judge may be drafted here for some special work. He may have to interpret this word. He will be in difficulties.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Why should we go in for abnormalities? We will be satisfied with our own men.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*); All that I says words are meant to be understood by normal people.

DEPUTY PRESIDENT: That is, in the country where it is enacted.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Expressions used in a statute are meant to be understood by all people.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Are there not High Court judgments where the term Kayala is defined?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): I do not know. As Mr. Krishna Pillai pointed out, we shall be stultifying ourselves if ordinary non-English expressions are left undefined in enactments. On these grounds, I press my amendment.

DEPUTY PRESIDENT: The question before the House is — In clause 2, Explanation I (*c*), omit the words "including Kayalas" occurring at the end.

The motion was put to vote and lost.

DEPUTY PERSIDENT: The question before the House is whether clause 2 stand part of the Bill.

The motion that clause 2 do stand part of the Bill was put to vote and passed.

Clause 2 was added to the Bill.

Clause 4.

MR. N. E. VARUGHESE (*Tiruvalla I*): സർ, മൂന്നാമത്തെ ക്ലാസ്സ് ബി-യിൽ after' "the words" trees of spontaneous growth' add "which require no rearing and care on the part of the holder for their growth and upkeep" എന്നുള്ള വാക്കുകൾ കൂടി ചേർക്കണമെന്നുള്ള ഭേദഗതിയെ ഇവിടെ അവതരിപ്പിച്ചു കൊള്ളുന്നു.

സർ, സ്വാഭാവികമായിട്ട് എന്നു പറഞ്ഞാൽ തനിയെ വളരുന്ന വൃക്ഷങ്ങൾ എന്നാണ് അർത്ഥം. ഭോഗാധികാരം ഭോഗാധികാരം കൊടുക്കുന്ന വൃക്ഷങ്ങൾ ഇന്ന ഇനങ്ങളാണെന്നും ഭോഗാധികാരം കൊടുക്കാത്ത വൃക്ഷങ്ങൾ ഇന്നയിനങ്ങളാണെന്നും ഇതിൽ വിവരിച്ചിട്ടുണ്ട്. അതിൽ തനിയെ വളരുന്ന വൃക്ഷങ്ങൾക്ക് ഭോഗാധികാരം കൊടുക്കാൻ പാടില്ലെന്നു

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വ്യക്തമാക്കിയിരിക്കുന്നു. ഭേഗണ്ഡം കൊടുക്കേണ്ട വൃക്ഷങ്ങൾ ഏതെല്ലാമാണെന്നുള്ളതിന് മൂന്നാമത്തെ വകുപ്പിന്റെ അവസാനത്തിൽ വിവരണം കൊടുത്തിരിക്കുന്നു. അതായതു കഴിഞ്ഞ കണ്ടെഴുത്തുകാലത്തു് കരം ചുമത്തീട്ടില്ലാത്ത വൃക്ഷങ്ങളെപ്പറ്റി എതിർതെളിവു കൊടുത്തിട്ടില്ലായെങ്കിൽ അവയെ തനിയെ വളർന്ന വൃക്ഷങ്ങളായി പരിഗണിക്കണമെന്നു പറഞ്ഞു കാണുന്നു. ഇങ്ങിനെ ഒരു വിവരണം കൊടുത്തിരിക്കുന്നതാണു കൂടുതൽ വിഷമകരമായിത്തീർന്നിരിക്കുന്നതു്. ഈ വിവരണം ഇല്ലാതിരുന്നെങ്കിൽ ഇങ്ങനെ ഒരു ഭേഗതിയുടെ ആവശ്യംതന്നെ വരികയില്ലായിരുന്നു. ഈ ബില്ലിൽ വിവരിച്ചിരിക്കുന്ന മാതിരിയുള്ള നിയമം വരികയാണെങ്കിൽ അനേകം കൃഷിക്കാർക്കു ഭേഗണ്ഡം കിട്ടാതെ വളരെ നഷ്ടം ഉണ്ടാകുന്നതാണു്.

MR. K. M. KURIAKOSE (*Muvattupuzha II*): തനിയെ വളരുന്ന ചില വൃക്ഷങ്ങളുടെ പേർ പറയാമോ?

MR. N. E. VARUGHESE (*Tiruvalla I*) : ഈട്ടി, തേക്ക്, പേഴ്, മരുതു് എന്നിങ്ങനെ പല വൃക്ഷങ്ങളുണ്ടു്. തെങ്ങു്, പ്ലാവു്, കമുകു് മുതലായ വൃക്ഷങ്ങളെ വച്ചുപിടിപ്പിക്കുന്നതിനാവശ്യമുള്ളതിലധികം പരിശ്രമവും ചെലവും സൂക്ഷ്മവും തനിയെ വളരുന്ന വൃക്ഷങ്ങൾക്കു വേണ്ടിവരുന്നതാണു്. അങ്ങിനെയുള്ള വൃക്ഷങ്ങൾ തിരുവിതാംകൂറിന്റെ നാനാഭാഗങ്ങളിലും നാം കാണുന്നുണ്ടു്.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): May I know from the member ഇപ്രകാരമുള്ള വൃക്ഷങ്ങൾക്കു ഭേഗണ്ഡവില കൊടുക്കരുതെന്നുള്ള ഏതെങ്കിലും വ്യവസ്ഥ ഈബില്ലിൽ ഉണ്ടോ?

DEPUTY PRESIDENT : I am very sorry that you began a sentence in English and then discontinued it. Unless I give you permission to change the language, you must put the question in English.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*) : Is there not a provision in the present bill which says that no value for improvements be given in respect of such trees?

MR. N. E. VARUGHESE (*Tiruvalla I*) : There is an explanation.

MR. M. SIVATANU PILLAI (*Tovala*) : The member is now speaking in English.

MR. N. E. VARUGHESE (*Tiruvalla I*) : Because a question was put in English, I think I should reply in English.

DEPUTY PRESIDENT : That is not your concern, you may give the answer please.

MR. N. E. VARUGHESE (*Tiruvalla I*) : In the Explanation it is stated that trees not assessed in the last settlement are excluded in the list of trees to be valued.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): Does not the explanation say that for the other trees no compensation need be given?

MR. N. E. VARUGHESE (*Tiruvalla I*): Unless the contrary is proved.

MR. K. PADMANABHAN (*Chirayinkil I*): The member is able to answer in English the questions put to him by a member. Does it not follow that the member can express well in English because he understands English?

DEPUTY PRESIDENT: I shall not remain silent when unnecessary trouble is thus being created. It has been the practice in this House that members should talk in English if that is possible, and in Malayalam if they are not able to talk in English. And, though some persons may know both languages, some amount of option was given to them to choose one of these languages. I know Mr. T. P. Velayudhan Pillai had written previously to the President and obtained permission to speak in Malayalam although Mr. Velayudhan Pillai is able to speak in English. I consider he speaks English with ease. Mr. Varughese who is a Vakil, who is in the habit of arguing cases before the Judicial tribunal in English is also able to express in English well. It is not for the Chair to dictate to any member what language he should speak and what language he should eschew. But at the same time, though the Chair is anxious always to grant the greatest facilities for the expression of thought which is useful to the House for purposes of discussion, the Chair has a duty to prevent people from blowing hot and cold. At the same breath, to talk in Malayalam and then in English, going back to Malayalam then coming to English and all this kind of thing is not in keeping with the traditions of this House. I do not want to make any reflection, I do not want to question the motives of persons. But let us have some dignity. If a member is able to speak in English, by all means I welcome it. If a member feels that he is not able to express his thoughts in English but can do so in Vernacular, permission is given. But, to ask for permission once and then talk in English and at other times in the course of the same day, a gentleman like Mr. Varughese in answering a question talking in English and for a longertime address in Malayalam—such a state of affairs is not in keeping with the dignity of the House. I trust to the good sense of the members. I think the Chair should not be put to the necessity of delivering rulings on small, trivial and unnecessary matters.

MR. N. E. VARUGHESE (*Tiruvalla I*): കണ്ടെഴുത്തു കാലത്തു ഭേഷ ണ്ടക്കാരൻ പണം ചെലവു ചെയ്തു പ്രയത്നിച്ചു് സംരക്ഷിച്ചു വന്ന എല്ലാ വൃക്ഷങ്ങൾക്കും കരം ചുമത്തിട്ടുണ്ടോ, അതല്ല കരം ചുമത്താതെ മുൻപു പറഞ്ഞ മാതിരിയുള്ള വൃക്ഷങ്ങൾകൂടി അന്നണ്ടായിരുന്നവോ എന്നാണു ഇവിടെ ആലോചിക്കേണ്ടതു്. സാധാരണയായി എല്ലാ സ്ഥലങ്ങളിലും വളരുന്ന മാവിൽത്തന്നെ വരിക്കമാവ്, സാധാരണമാവ്, വിശേഷരീതിയിലുള്ള കട്ടമാവ്, പറങ്കിമാവ് എന്നിങ്ങനെ പലയിനങ്ങൾ

LIBRARY ARCHIVES Kerala Legislative Assembly

ഉണ്ട്. കണ്ടെഴുത്തുകാലത്തു് വടക്കൻ തിരുവിതാംകൂറിലും മദ്ധ്യതിരുവിതാംകൂറിലും മാവുകൃഷിക്കു കരം ചുമത്തിയിട്ടില്ല. ഒറ്റിക്കാരനായ ഒരുവൻ തന്റെ പുരയിടത്തിൽ വരിക്കമാവും ഒട്ടുമാവും വച്ചുപിടിപ്പിച്ചിരിക്കുകയാണെങ്കിൽ അവയ്ക്കു് ഭേഹണ്ഡവില കൊടുക്കുകയില്ലെന്നു പറയുന്നതു കഷ്ടമാണു്. അതു വളരെ ആദായം കിട്ടുന്ന ഒന്നാണു. ഒരു മാങ്ങക്കു ചിലപ്പോൾ രണ്ടണാ വിലകിട്ടും.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): May I know from the member whether he is aware of the decisions of the High Court with respect to mango trees in regard to improvement in North Travancore and South Travancore?

MR. N. E. VARUGHESE (*Tiruvalla I*): വടക്കൻ തിരുവിതാംകൂറിൽ ഭേഹണ്ഡം കൊടുക്കാറില്ലെന്നു് അറിയാം.

വടക്കൻ തിരുവിതാംകൂറിനെ സംബന്ധിച്ചിടത്തോളം മാവുകൾ തനിയെ വളരുന്ന വൃക്ഷങ്ങൾ അല്ലെങ്കിലും ഭേഹണ്ഡക്കാരന്റെ പ്രയത്നവും പണച്ചെലവും അവയെ നട്ടു വളർത്തുന്നതിനു് ആവശ്യമുണ്ടെന്നു തെളിയിക്കാത്ത കാലത്തോളം അതിനു ഭേഹണ്ഡവില കിട്ടുന്നതല്ല.

MR. R. RAMAN PILLAI (*Changanachery cum Peermade II*): Is the hon'ble member aware of mango trees growing in forests?

MR. N. E. VARUGHESE (*Tiruvalla I*): അതിനെത്തരം പറയണമെന്നു വിചാരിക്കുന്നില്ല.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Does the member want the present law to be altered by including his amendment? The member said that at present the value of these trees is not included in North Travancore. The member is advocating that the value of the improvements must be awarded. I want to know whether he wants the present law to be altered?

MR. N. E. VARUGHESE (*Tiruvalla I*): ഏതു ലാ എന്നു പറഞ്ഞാൽകൊള്ളാം.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): May I know whether the tenants do not get the value of improvements for mango trees according to the rulings of the High Court?

MR. N. E. VARUGHESE (*Tiruvalla I*): ഭേഹണ്ഡം നിശ്ചയിക്കുന്നതിനു ഇപ്പോൾ യാതൊരുവിധമായ ചട്ടങ്ങളുമില്ലാത്തതുകൊണ്ടാണു് അതിനു പരിഹാരമായി ഈ ബില്ലു കൊണ്ടുവന്നിരിക്കുന്നതു്. ഓരോ കാലത്തു ഹൈക്കോടതിയിൽ ഉണ്ടായിട്ടുള്ള ഓരോ വിധികർമൂലം വിധികർക്കുതന്നെ വ്യത്യസ്ഥത വന്നിട്ടുണ്ടു്. അവയെ ശരിപ്പെടുത്തി ഭേഹണ്ഡം നിശ്ചയിക്കുന്നതിനാണു ഈ ബിൽ കൊണ്ടുവന്നിരിക്കുന്നതു്.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. R. SIVARAMAN NAIR (*Tiruvalla II*): Is it the member's view that no value for improvements in respect of mango trees is given in North Travancore ?

MR. N. E. VARUGHESE (*Tiruvalla I*): മദ്ധ്യതിരുവിതാംകൂറിൽ അങ്ങിനെ കൊടുത്തിട്ടുള്ളതായി അറിവില്ല. അതുകൊണ്ട് കണ്ടെഴുത്തുകാലത്തു മാവിനെ സംബന്ധിച്ചിടത്തോളം കരം കൊടുക്കേണ്ട ഇനത്തിൽ കൊള്ളിച്ചിട്ടില്ലെങ്കിലും അതിനു ദേഹണ്ഡവില കൊടുക്കേണ്ടതാണ്. ദേഹണ്ഡംകൊടുക്കുന്ന ജന്മിക്ക് അതുകൊണ്ടു ഒരു നഷ്ടവും വരുന്നില്ല. അതിനെ നട്ടുവളർത്തി സംരക്ഷിച്ചതിനുള്ള പ്രയത്നക്കൂലി മാത്രമേ ദേഹണ്ഡക്കാരനു കൊടുക്കുന്നുള്ളൂ.

വടക്കൻതിരുവിതാംകൂറിൽ കടപ്ലാവു് എന്നൊരു വൃക്ഷമുണ്ട്. അതിനുവേണ്ടി നല്ലവണ്ണം പ്രയത്നിച്ചു സൂക്ഷിച്ചു സംരക്ഷിച്ചാൽ മാത്രമേ അതിൽനിന്നും ആദായം കിട്ടുകയുള്ളൂ. ആ വൃക്ഷംനിമിത്തം ധാരാളം ആദായം കിട്ടുമെന്നുള്ളതുകൊണ്ട് വടക്കൻതിരുവിതാംകൂറിലും മദ്ധ്യതിരുവിതാംകൂറിലും അതിനെ സംരക്ഷിച്ചുവരുന്നുണ്ട്. ഇത്രയും പ്രയാസപ്പെട്ടു സംരക്ഷിച്ചുവരുന്നതായ കടപ്ലാവുവൃക്ഷങ്ങളെ താനെ വളരുന്നവയാണെന്നു പരിഗണിക്കണമെന്നു പറയുന്നതു് വളരെ സങ്കടകരമാണ്. അതുകൊണ്ടു ആ വൃക്ഷത്തിനും ദേഹണ്ഡവില കിട്ടേണ്ടതു് അത്യാവശ്യമാണ്.

വടക്കൻതിരുവിതാംകൂറിൽ കുടംപുളി എന്നും വാളംപുളി എന്നും രണ്ടുതരത്തിലുള്ള പുളിയുണ്ട്. തെങ്ങു്, കമുകു, പ്ലാവു് എന്നീ വൃക്ഷങ്ങളെപ്പോലെ വളരെ ആദായമുള്ളതും വളരെക്കാലം കേടുകൂടാതെ നിന്നു് ഫലം തരുന്നതുമാണ് ഈ പുളിവൃക്ഷം. ഒരു ദേഹണ്ഡക്കാരൻ ഇങ്ങിനെയുള്ള വൃക്ഷങ്ങളെ നട്ടുവളർത്തി ആദായകരമാക്കിക്കൊണ്ടുവരുമ്പോൾ അവയെ തനിയെ വളരുന്ന വൃക്ഷങ്ങളുടെ കൂട്ടത്തിൽ ഗണിക്കണമെന്നു പറഞ്ഞു് ദേഹണ്ഡവില കൊടുക്കാതെ തള്ളിക്കളയുന്നതു് ദേഹണ്ഡക്കാരനു വളരെ സങ്കടകരമായിട്ടുള്ളതാണു.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*) : വാളംപുളിയും കുടംപുളിയും തനിയെ വളരുന്ന വൃക്ഷങ്ങൾ അല്ലേ?

MR. N. E. VARUGHESE (*Tiruvalla I*) : തനിയെ വളരുന്നു എങ്കിലും അതിനു വേണ്ട സൂക്ഷ്മവും സംരക്ഷണയും ചെലവും ചെയ്യേണ്ടിയിരിക്കുന്നു.

DEPUTY PRESIDENT : അതല്ല ചോദിച്ചതു്. ഈ വൃക്ഷങ്ങൾ തനിയെ കിക്കളിനുണ്ടോ എന്നാണ്?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. N. E. VARUGHESE (*Tiruvalla I*): തനിയേ കിളുക്കാറുണ്ട്.

അതുപോലെ മരയോട്ടി എന്നൊരു വൃക്ഷമുണ്ട്. അതിൽനിന്നും എണ്ണ എടുക്കുന്നു.

DEPUTY PRESIDENT: ഏതെല്ലാം വൃക്ഷങ്ങൾ എന്ന് പറഞ്ഞാൽ മതി.

MR. N. E. VARUGHESE (*Tiruvalla I*): ഓരോ വൃക്ഷത്തിന്റേയും ഉപയോഗത്തെപ്പറ്റിയാണ് പറയുന്നത്.

DEPUTY PRESIDENT: അതു പറയാൻ അവകാശവുമുണ്ട്.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): തനിയെ കിളുക്കുന്ന എന്നു തെളിയാത്ത വൃക്ഷങ്ങൾക്കും ഭേഷണ്ഡവില കൊടുക്കണമെന്നാണോ അഭിപ്രായം?

MR. N. E. VARUGHESE (*Tiruvalla I*): അതെ. തനിയെ കിളുക്കുന്ന വൃക്ഷമായാലും അതിനെ ആദായകരമാക്കുന്നതിന് കൈവശക്കാരന്റെ പ്രയത്നവും സൂക്ഷ്മവും പണച്ചെലവും ആവശ്യമായിരിക്കുന്നു.

MR. K. R. ELENKATH (*Kalkulam I*): കൈവശക്കാരന്റെ ഭേഷണ്ഡംകൂടാതെ വളരുന്ന വൃക്ഷങ്ങളെപ്പറ്റി എങ്ങിനെ ചെയ്യണം?

MR. N. E. VARUGHESE (*Tiruvalla I*): എന്റെ ഭേദഗതിയുടെ ഉദ്ദേശം മനസ്സിലാക്കിയിരുന്നെങ്കിൽ ഈ ചോദ്യം ചോദിക്കുകയില്ലായിരുന്നു. അതുകൊണ്ടു ഇതിനു ഉത്തരം പറയുന്നില്ല.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): സംരക്ഷണം നടത്തി എന്നുള്ളതിനെ തെളിയിക്കുന്നതാരാണ്? ഭേഷണ്ഡം വേണമെന്നു അവശ്യപ്പെടുന്ന ആളാണോ?

MR. N. E. VARUGHESE (*Tiruvalla I*): ഭേഷണ്ഡം കൊടുക്കുകയില്ലെന്നു പറയുന്ന ആൾ തെളിയിക്കണം. കൈവശക്കാരൻ സംരക്ഷിച്ചു വളർത്തിയ വൃക്ഷമല്ല എന്നു തെളിയിക്കണം.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): ഭേഷണ്ഡം വേണമെന്നു അവകാശപ്പെടുന്ന ആളല്ലേ അതു തെളിയിക്കേണ്ടത്?

MR. N. E. VARUGHESE (*Tiruvalla I*): പുരയിടങ്ങളിൽ നിൽക്കുന്ന എല്ലാ വൃക്ഷങ്ങൾക്കും ഭേഷണ്ഡം കൊടുക്കണം.

MR. A. THANU PILLAI (*Trivandrum-Rural*): Mr. Asan is putting a question in Malayalam? Is he in order?

DEPUTY PRESIDENT: The world is not going to be affected by not giving a ruling now. I have no objection to give a ruling, if it is necessary.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I was only following the Law Member.

DEPUTY PRESIDENT: I did not ask you. Please proceed, Mr. Varughese.

MR. N. E. VARUGHESE (*Tiruvalla* I): ആഞ്ഞിലി എന്നൊരു വൃക്ഷമുണ്ട്. അതു് പണ്ടു തെങ്ങുവൃക്ഷങ്ങളെക്കാൾ വിലയുള്ളതാണ്. ഈ ആഞ്ഞിലി വൃക്ഷം തനിയെ കിളിക്കുന്നതാണെങ്കിലും അതിനെ ശരിയായ വിധത്തിൽ സംരക്ഷിച്ചു വളത്തിയില്ലെങ്കിൽ ആടു മുതലായ കന്നുകാലികൾ തിന്നുനശിപ്പിച്ചുകളയുന്നതാണ്. അതുകൊണ്ടു് ആദ്യകാലങ്ങളിൽ ഈ വൃക്ഷത്തെ മൃഗങ്ങളിൽനിന്നും മറ്റും ഉള്ള ഉപദ്രവങ്ങളിൽനിന്നും സംരക്ഷിച്ചാൽ മാത്രമെ ആ വൃക്ഷം വളർന്നുവരികയുള്ളൂ. അതിനാൽ ആഞ്ഞിലിവൃക്ഷത്തിനു ദേഹണ്ഡംകൊടുക്കണം. തനിയെ വളരുന്നതൊ നട്ടുവളർത്തുന്നതൊ ആയ വൃക്ഷങ്ങളായാലും ഈ ഭേദഗതിമൂലം ആവശ്യപ്പെടുന്നതു കൈവശക്കാരന്റെ സംരക്ഷണയും ചിലവും ആവശ്യമുണ്ടെന്നു കാണുന്ന വൃക്ഷങ്ങളെ തനിയെ വളരുന്ന വൃക്ഷമായി ഗണിച്ചുകൂടാ എന്നും അതിനും ദേഹണ്ഡവില കിട്ടണമെന്നുമാണ്,

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Will the member mention the name of any tree which is of spontaneous growth and which does not require for its growth and upkeep care and attention on the part of the holder?

MR. N. E. VARUGHESE (*Tiruvalla I*): Yes, *Maruthu* for instance.

DEPUTY PRESIDENT: Should it not be protected against fire?

MR. N. E VARUGHESE (*Tiruvalla I*): മരുത് എന്ന് ഒരു വൃക്ഷമുണ്ട്. അതിന്റെ ഒരു കൊമ്പു മുറിച്ചാൽ വൃക്ഷം നശിച്ചുപോകും.

DEPUTY PRESIDENT: റിസർവു വനങ്ങളോടു തൊട്ടുകിടക്കുന്ന പുരയിടങ്ങളിൽ ഉള്ള മരുത വൃക്ഷത്തെ സംരക്ഷിക്കേണ്ട ആവശ്യമുണ്ടോ?

MR N. E. VARUGHESE (*Tiruvalla I*): അങ്ങിനെ ഉണ്ടാവുകയില്ല. ഉണ്ടായാലും സംരക്ഷിച്ചില്ലെങ്കിൽ ശരിയായ വില കിട്ടുകയില്ല.

അതുകൊണ്ടു ഈ ഭേദഗതിയിൽ അടങ്ങിയിരിക്കുന്ന തത്വങ്ങളെ ഞാൻ ഒന്നുകൂടി വിശദമാക്കാം. തനിയെ വളരുന്ന വൃക്ഷമായാലും അതിന്റെ വളർച്ചക്കും സംരക്ഷണക്കും കൈവശക്കാരന്റെ പ്രയത്നം ആവശ്യമുണ്ടെങ്കിൽ അങ്ങിനെയുള്ള വൃക്ഷങ്ങൾക്കു് ദേഹണ്ഡവില കൊടുക്കണമെന്നു പറയുന്നതു ഏറ്റവും ന്യായവും യുക്തിക്കുചേർന്നതുമാണ്. അവനവൻചെയ്യുന്ന പ്രയത്നത്തിന്റെ ഫലം കിട്ടേണ്ടതു അത്യാവശ്യ

LIBRARY ARCHIVES Kerala Legislative Assembly

മാണ്. മറൊരുത്തന്റെ വസ്തുവാങ്ങി അതിൽ ഭേഛണ്ഡം ചെയ്യാൽ ഉടമസ്ഥൻ തിരിയെ എടുക്കുമ്പോൾ പ്രയത്നഫലം കൊടുക്കാതെ അയാളെ വെറുതെ പറഞ്ഞയക്കണമെന്നു പറയുന്നതു വളരെ കഷ്ടമാണ്. ഭേഛണ്ഡവില കൊടുക്കുന്നതിനെക്കാൾ കൂടുതലായ ആദായം അതിൽ നിന്നും ഉടമസ്ഥനു കിട്ടുന്നതുകൊണ്ടു അവൎക്കു ഭേഛണ്ഡവില കൊടുക്കുകയില്ലെന്നു പറയുന്നതു യുക്തിക്കു തീരെ ചേരുന്നതല്ല. ഈ ബില്ലിൽ പറഞ്ഞിരിക്കുന്ന വിധത്തിലുള്ള ഒരു നിയമം നടപ്പാക്കുന്നപക്ഷം അനേകായിരം കൃഷിക്കാൎക്കു കഷ്ടതയും നഷ്ടവും ഉണ്ടാകുമെന്നു് എനിക്കു നേരിട്ടു അറിവുള്ളതുകൊണ്ടാണു് ഈ ഭേദഗതി ഞാൻ അവതരിപ്പിക്കുന്നതു്. അതിനാൽ എന്റെ ഭേദഗതിയോടുകൂടി യാതൊരു എതിരഭിപ്രായവും കൂടാതെ എല്ലാവരും പൂർണ്ണമായി യോജിക്കുമെന്നുള്ള വിശ്വാസത്തോടുകൂടി വിരമിച്ചുകൊള്ളുന്നു.

MR. K. M. KURIAKOSE (*Muvattupuzha II*) : Sir, I second the amendment brought forward by Mr. Varughese. It has been questioned by some members whether a mango tree is not given compensation for in judgments and all that. My question is that when this Bill comes into law, whether those judgments would stand or not. Our reflections are based only on the contents of this bill. According to this bill, no tree of spontaneous growth can be given compensation for. The Explanation reads thus "trees of any class not assessed to revenue in any locality at the last Land Revenue Settlement shall, until the contrary is proved, be deemed to be trees of spontaneous growth in that locality". Now then what are the trees that were assessed during the last revenue settlement? Only very few. The chief trees are cocoanut, jack, arecanut etc. Anyhow trees that are of considerable value now were excluded in the last settlement. Let me ask this question, whether conditions today are the same as they were then? Trees that were valueless then are valuable now. Their yield is also much. Take, for instance, the cashewnut tree. It is a very valuable tree now. Does that come under the explanation given here? No. What I want to impress on the House is this. If you take to this explanation strictly, the poor cultivator who claims compensation will be devoid of these rights.

*** DEPUTY PRESIDENT** : But you find the words "until the contrary is proved" in the Explanation. It is not a case of denying the value of trees.

MR. K. M. KURIAKOSE (*Muvattupuzha II*) : That is a difficult clause to be complied with. How is it to be proved? Where does the burden of proof lie? If the bill says clearly for what all trees compensation should be given, then there is no difficulty.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*) : May I know, who should bear the burden of proof?

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MR. K. M. KURIAKOSE (*Muvattupuzha II*): One who claims compensation. It is a difficult thing for him.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Is it not more difficult for one who is out of possession of properties?

MR. K. M. KURIAKOSE (*Muvattupuzha II*): The party who wants to get back the property must pay for the improvements effected on it.

MR. T. KRISHNA PILLAI (*Neyyattinkara II*): Is there not a clause in the bill prohibiting the holder to cut and remove these trees before assessment?

MR. K. M. KURIAKOSE (*Muvattupuzha II*): That is a different question.

If the amendment of Mr. Varughese is accepted, there is scope for justice being done.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Then, who is to prove that improvements required rearing and care?

MR. K. M. KURIAKOSE (*Muvattupuzha II*): The man who claims compensation. If the bill is passed as it is, there will be extreme difficulty of proving whether he can get compensation as, in the Explanation, it is stated that "trees which were assessed in the last settlement etc."

Now let us look to our sister State of Cochin. I think, it is ruled in judgments, that the party is entitled to get compensation even for very insignificant trees that grow on the property. Trees of spontaneous growth are assessed since they grew under the care and possession of the occupier.

DEPUTY PRESIDENT: You used the word "I think". Do you know that for certain?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Does the member prefer the Rulings of the High Court of Travancore to Cochin or the reverse?

DEPUTY PRESIDENT: That is cross-examining.

MR. K. M. KURIAKOSE (*Muvattupuzha II*): When once this bill comes into law, I do not know whether the past rulings of the High Court will stand.

DEPUTY PRESIDENT: Do you say definitely that there is such a thing in Cochin?

MR. K. M. KURIAKOSE (*Muvattupuzha II*): Yes. Compensation for almost every tree is allowed in Cochin. I commend the amendment of Mr. Varughese for the acceptance of the House. If the bill is passed as it is, it will put difficulty on the path of the cultivator who has effected valuable improvements.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): Sir, I oppose the amendment of Mr. Varughese. To me it seems there is absolutely no force in the reasons advanced by the mover. Evidently he has not understood the Explanation to Clause 3. Mr. Varughese appears to have

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been labouring under a misapprehension that the holders will not be given the value of the improvements for the trees of spontaneous growth. That the Bill does not make any such provision is clear from the Explanation to clause 3.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Suppose there was a spontaneous tree growth. Care was taken for rearing afterwards. Will the value of improvements given?

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): If it is proved by the holder that tree growth is the result of his labour, value of improvements may be given for the same.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Suppose a tree sprouted spontaneously and care was bestowed upon that only late. Will any value be given? If so, under what clause?

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): Compensation is given only for the efforts. Sprouting takes place very often spontaneously.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Supposing it is proved that considerable care was bestowed upon if not in the beginning but afterwards. Will any value be given? If so, under what clause?

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): Value may be given.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Under what clause?

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): If it is proved that the holder has improved the holding thereby, under this clause itself.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): May I tell the member then it is not a tree of spontaneous growth. It is only a spontaneous, sprouting.

DEPUTY PRESIDENT: Yes. Without bestowing the usual kind of attention, certain trees grow more by nature.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): So then, Sir, the mover appears to have been labouring under a misapprehension that for the trees not assessed to revenue in the last settlement, the holder is not entitled to get any value. It is not so. Explanation divides the trees into two classes, *viz.*, trees assessed to revenue in the last settlement and those not assessed to revenue. The explanation fixes the onus of proof in two different ways. In the case of trees assessed to revenue without adducing any proof, the holder is automatically entitled to get value of improvements. In the case of trees not assessed to revenue, the holder must satisfy the court that the trees were not of spontaneous growth. Then compensation will be awarded to him in respect of such trees also. So then it is only a matter regarding the onus of proof. As a Vakil I know, Sir, in 99 per cent. of the mortgage deeds, generally no mention is made in regard to the number of trees, that stand in the holdings at the time of execution of deeds and that are not assessed to

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revenue. Of course mention will be made of valuable trees, such as jack, cocanut, etc. In my humble opinion, it is very dangerous to the proprietor if such a provision is not included in this Bill. Hence I see no difficulty with regard to this clause of the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): If it is a case of *Anjili* tree on which no attention was bestowed for the first 10 years and attention bestowed for second 10 years, in such a case, it will be considered as a tree of spontaneous growth or otherwise.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): That is a tree of spontaneous growth. Moreover there may not arise any such case.

MR. A. THANU PILLAI (*Trivandrum—Rural*): May I know what is the kind of attention that could be bestowed upon an *Anjili* tree?

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): The holder should not cut and remove it. This is all what the holder has to do by way of attention.

MR. A. THANU PILLAI (*Trivandrum-Rural*): Is it the custom in our country to give value for rearing trees?

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): No.

DEPUTY PRESIDENT: The House will now adjourn and meet again at 11 o'clock on Monday.

The Assembly adjourned at 5-2 P. M.

K. MADHAVA KURUP,
Secretary to the Sri Mulam Assembly.

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